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WORK RELATED TO THE CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS AND OTHER INTERNATIONAL ARRANGEMENTS AND AGREEMENTS: OTHER INTERNATIONAL, REGIONAL AND BILATERAL ARRANGEMENTS AND AGREEMENTS RELATED TO TRANSNATIONAL CORPORATIONS

Other international, regional and bilateral arrangements and agreements related to transnational corporations

Report of the Secretary-General

SUMMARY

The present report concentrates on bilateral investment treaties and covers a number of significant developments in this area since the Centre last reported to the Commission on these treaties. The number of bilateral investment treaties has continued to grow at a steady rate and, quite significantly, several Central and Eastern European countries, together with certain Latin American States, have become signatories to such treaties within the past few years. Generally speaking, bilateral investment treaties concluded in recent years show a marked similarity with other bilateral treaties in this area, and, in the main, they continue to address issues such as the conditions of entry for foreign investment, general standards of treatment for foreign investors, the right to transfer payments, the question of compensation in the event of an expropriation and the settlement of disputes. While most bilateral investment treaties emphasize the protection of investments, additional attention could be paid to the promotion of investments on the part of capital-exporting countries, and it is this area that could perhaps lead to the most significant developments in the near future.

* E/C.10/1991/1.

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INTRODUCTION

1. At its sixteenth session, the Commission on Transnational Corporations decided to include in its provisional agenda for its seventeenth session a sub-item entitled "Other international, regional and bilateral arrangements and agreements related to transnational corporations". The Commission requested the Secretary-General to undertake further work on international arrangements and agreements related to transnational corporations. The present report, which focuses on bilateral treaties for the protection and promotion of foreign direct investments, is in response to that request.

2. In 1988, the United Nations Centre on Transnational Corporations published a general survey of state practice in the area of bilateral investment treaties that sought, inter alia, to analyse the main provisions in those treaties and to assess their overall significance in international relations. 1/ Against the background of that publication, chapter I of the present report reviews recent developments and trends pertaining to bilateral investment treaties and, in particular, identifies developments in state practice that have occurred within the past three years. Chapter II undertakes a detailed analysis of the legal and political issues that have assumed particular significance in the negotiation of recent bilateral investment treaties, and relates those issues to the general international context in which they have occurred. Chapter II draws heavily from a forthcoming study by the Centre on practical and other problems that arise in the actual negotiation of bilateral investment treaties.

I. RECENT DEVELOPMENTS AND TRENDS

3. Since the publication of the survey on bilateral investment treaties, in 1988, over 70 additional treaties have been concluded. The total number of such treaties signed by mid-1990 exceeds 370. This rapid increase in the number of bilateral investment treaties may be explained primarily by the actions of Central and Eastern European States in this respect, and most notably by the practice of Poland and the Soviet Union, which, during the past two years, have signed 17 and 12 treaties respectively. Other Central and Eastern European countries that had already become signatories to bilateral investment treaties during the 1970s and 1980s (e.g., Bulgaria, Hungary, Romania and Yugoslavia) have also concluded new treaties, so that, altogether, States from this region have been signatories to nearly two thirds of all such treaties concluded since 1987. The reason for this pattern may be briefly stated. Central and Eastern European countries are currently undergoing fundamental changes in their economic, political and legal systems as part of an overall effort to become more integrated in the world economy. An important element in the economic strategy of these countries is the encouragement of foreign investment, mainly from transnational corporations based in developed market economies, and the perception is that bilateral investment treaties will engender confidence among such investors. In other words, the hope is that, by creating a climate of certainty and stability, these treaties will help to stimulate and increase investment flows.

4. In the period under review, certain Latin American countries - Argentina, Bolivia, Uruguay and Venezuela - have, for the first time, concluded bilateral investment treaties with Western, capital-exporting countries. It is too early to reach any clear conclusions on the implications of this development, but, as in the case of their Central and Eastern European counterparts, the Latin American States concerned seem to be prompted at least in part by the view that bilateral investment treaties may create the climate for increased foreign investment in their respective economies. In other regions of the developing world, however, the rate at which countries have concluded new agreements has been considerably slower. In Africa, Ghana and Morocco have each signed four new treaties, but in Asia, with the exception of China, only a small number of new treaties have been concluded.

5. For the most part, bilateral investment treaties continue to be agreements between Western capital-exporting countries, on the one hand, and developing, or Central or Eastern European States on the other. In addition, certain countries members of the Organisation for Economic Cooperation and Development (OECD) (i.e., Portugal and Spain) have concluded bilateral investment treaties for the first time, as part of their efforts to expand their foreign direct investment. At the same time, however, only a small number of new treaties have been concluded between developing countries (e.g., Gabon with Morocco and China with Ghana), despite earlier predictions that this could become the main area for the growth of bilateral investment treaties. In recent years, a few treaties have also been signed between Central European and developing countries (e.g., Poland with the Republic of Korea and Romania with Ghana).

6. Still, on the general level, there appears to be few differences between the latest bilateral investment treaties and those concluded in the past. Given the sharp variations in economic and social systems, as well as levels of development, among the signatories of these treaties, this point should not go unnoticed. It may be explained, in part, by the way bilateral treaties continue to be negotiated, namely, through model treaties developed by capital-exporting countries, and also by the fact that in bilateral negotiations the bargaining strength of the capital-exporting State is such that, in most instances, it can insist upon the inclusion of particular provisions. The relative uniformity that prevails in this area, however, does not necessarily imply that bilateral investment treaties reflect a body of internationally accepted principles that now have customary law status. It rather suggests that capital-importing countries find it easier to accept certain conditions from their capital-exporting counterparts in the narrow context of a bilateral relationship (often bundled up in a number of other mutual concessions) than in a broader multilateral ambit.

II. UPDATING ISSUES IN BILATERAL INVESTMENT TREATIES

7. The basic issues covered by bilateral investment treaties have not changed in recent years. They include the definition of investments and investors (which determines the scope of the treaty); several general standards of treatment (fair and equitable, national and most-favoured-nation standards); and a number of more specific standards on several key issues, such as expropriation and compensation,

compensation for losses owing to war and other armed conflicts, transfer of payments and the repatriation of funds, subrogation of the State of the rights of the investor and settlement of disputes. As has already been emphasized, the treatment of these issues in bilateral investment treaties has been characterized by a marked degree of uniformity; nevertheless, on some questions, certain divergent approaches are discernible. It may, therefore, be useful to review some of the main issues covered in recent bilateral investment treaties and to review how such issues may be resolved in the future by drawing on existing multilateral, regional and bilateral arrangements. 2/

A. Definition of investments and investors

8. As a rule, bilateral investment treaties cover foreign direct investment of all types by specifying an open-ended definition of "investments" that embraces not only existing forms of investment but also forms of investment that may be developed after the adoption of the treaty. This approach has proved to be particularly effective to accommodate the increasingly differentiated forms foreign direct investment has taken over the years.

9. With respect to the definition of investors, questions have arisen concerning the determination of what juridical persons are covered as "nationals" of each country party to the treaty. More specifically, it is not always easy to identify which companies have a sufficient link to a particular country to receive protection under a bilateral investment treaty signed by that country. This aspect has become increasingly discernible in recent times with the emergence of complex intercorporate alliances across national borders, which tends to disperse power and control among entities of different nationalities. In this regard, the following situations pose particular problems: (a) investments made by a corporation located in a treaty country but owned by nationals of a third country; (b) investments made by a corporation located in a third country but owned by nationals of a treaty country; and (c) investments made by a corporation in which nationals of a third country have control or a substantial interest.

10. In general, negotiators from capital-importing countries will wish to ensure that nationals from the capital-exporting treaty partner have a substantial interest in, or control over, the investment to be protected. This is so because, if the basis for protection is only the place of incorporation of the company in question, investors from third countries may derive treaty benefits simply by incorporating their venture in the treaty country, a process which is relatively easy under most modern corporate laws. To reduce the possibility of abuse, therefore, many treaties now require that, for a corporation to derive treaty protection, it must be incorporated in a treaty country and have either its seat or the locus of control within that country. Thus, for example, the 1988 treaty between Japan and China states:

> "Companies constituted under the applicable laws and regulations of one Contracting Party and having their seat within its territory shall be deemed companies of that country." 3/

11. Where a country unilaterally denies the benefits of a bilateral investment treaty to a company that purports to have the nationality of a treaty partner, the potential for conflict is evident. To avoid this problem, mechanisms such as consultations on specific cases where the existence of a sufficient linkage between a company and a treaty partner is in doubt can be built into the treaty. An example of such a mechanism can be found in the 1984 treaty between Zaire and the United States. 4/

B. Conditions for the entry of foreign direct investment

12. Many developing countries have adopted laws and policies to regulate the entry of foreign direct investment to their territories and most Central and Eastern European countries are in the process of doing the same. It is therefore important that the provisions of bilateral investment treaties are clear about whether investments under the treaty are governed by the general provisions of the national law or by a special regime. As in the past, most recent treaties leave the matter of admission of investment from the other country to be regulated by the host country, but also emphasize that admission should be facilitated. The standard provision found in most treaties, however, does not normally specify any concrete measures or steps that could be taken to that effect.

13. The bilateral investment treaty recently signed by Poland and the United States, however, has moved beyond the standard bilateral treaty practice. According to a commentary on that treaty, 5/ the Government of Poland attached a side letter to the treaty committing itself to review the requirements on entry of investments in the current Polish law with the United States within two years, with a view to narrowing and subsequently phasing out existing conditions on entry. Moreover, the Government of Poland undertook to adopt a number of concrete steps aimed at streamlining the existing screening process for prospective United States investors, namely:

(a) To issue permits automatically within 60 days, unless the denial is notified and explained;

(b) To use the "state economic interests" criterion only exceptionally and not for the purpose of protecting domestic enterprises from competition;

(c) To apply the same environmental standards to national and United States investors;

(d) To accord United States investors treatment at least as favourable as that accorded to perspective investors from other States.

14. So far, no bilateral investment treaty has achieved an "open door policy" with respect to investments from its treaty partner. The most significant development in that direction is to be found in the recent bilateral treaties signed by the United States that oblige the host country to grant admission to investments from the other country on the basis of national treatment and most-favoured-nation treatment. Thus, article II of the treaty between the United States and Panama (which has not yet been ratified) provides as follows:

"Each Party shall permit and treat such investment, and activities associated therewith, on a basis no less favorable than that accorded in like situations to investment or associated activities of its own nationals or companies, or of nationals or companies of any third country, whichever is the most favorable."

The implication of this provision is clear: in deciding on the admission of a foreign investment project, the host country must treat applications by investors of its treaty partner in the same manner as it treats applications by its own national investors or those from other countries.

15. This provision raises a number of questions. For one thing, in most countries certain industries are closed to foreign investors. For another, the application of the concept of national treatment to the entry of foreign investments, no two of which are exactly alike, is far more difficult than is its application to international trade in goods, where this concept first developed. For these reasons, most treaty partners find it easier to grant most-favoured-nation treatment upon entry rather than national treatment, the applicability of which would be subject to severe limitations by qualifying words such as "in like situations". Already, those treaties that have included a provision granting national treatment on entry also include a specific list of areas and industries in which foreign investment may be prohibited, conditioned or limited.

C. Promotion of investment

16. Most bilateral investment treaties purport to deal not only with the protection but also with the promotion of foreign investment. An initial question in this regard is whether it is the host country, the home country or both that has an obligation to encourage investment. In current practice, the answer may vary. Most treaties place a general obligation on the host country to promote investment from the other country. However, expressions such as "favourable conditions for investment", which are commonly used, are highly flexible and subject to numerous interpretations. They may refer only to Government laws and policies and, if so, to which laws and policies? They may refer also to physical conditions necessary for investment such as adequate roads, communications, power supplies and infrastructure.

17. One might also ask whether bilateral investment treaties impose an obligation on the home country to encourage its nationals and companies to invest in the territory of the treaty partner. It would appear that most current treaties do not. Generally, the capital-exporting countries have taken the position that encouraging their nationals and companies to invest in the other country is not their responsibility. Nevertheless, in the spirit of reciprocity, which forms the basis of most bilateral relationships, capital-importing countries could seek to obtain some commitment that the capital-exporting country will take positive steps to encourage investment in the other country. One example of such a general commitment is to be found in article 2, paragraph 3, of the treaty between Cameroon and the Belgium-Luxembourg Economic Union:

"Aware of the importance of investments in the promotion of its policy of co-operation for development, the Belgium-Luxembourg Economic Union shall strive to adopt measures capable of spurring its commercial operations to join in the development effort of the United Republic of Cameroon in accordance with its priorities."

This provision also acknowledges the asymmetrical nature of the relationship between a capital-exporting State and its developing country counterpart, for it does not impose a similar obligation on Cameroon to promote investment in Belgium-Luxembourg.

18. In this respect, the Fourth Lomé Convention between 69 African, Caribbean and Pacific (ACP) countries, on the one hand, and the members of the European Community, on the other, concluded in 1989, provides a useful example of the type of promotional efforts that may be incorporated in bilateral investment treaties. More particularly, article 259 of that Convention specifies that:

"In order to encourage private investment flows and the development of enterprises, the ACP States and the [European] Community, in cooperation with other interested bodies, shall within the framework of [this] Convention:

"(a) support efforts aimed at promoting European private investment in the ACP States by organizing discussions between any interested ACP State and potential investors on the legal and financial framework that ACP States might offer to investors;

"(b) encourage the flow of information on investment opportunities by organizing investment promotion meetings, providing periodic information on existing financial or other specialized institutions, their facilities and conditions and encouraging the establishment of focal points for such meetings;

"(c) encourage the dissemination of information on the nature and availability of investment guarantees and insurance mechanisms to facilitate investment in ACP States;

"(d) provide assistance to small and medium-sized enterprises in ACP States in designing and obtaining equity and loan financing on optimal terms and conditions;

"(e) explore ways and means of overcoming or reducing the host-country risk for individual investment projects which could contribute to economic progress;

"(f) provide assistance to ACP States in:

(i) creating or strengthening the ACP States' capacity to improve the quality of feasibility studies and the preparation of projects in order that appropriate economic and financial conclusions might be drawn;

(ii) producing integrated project management mechanisms covering the entire project development cycle within the framework of the development programme of the State." 6/

19. Some of these or similar measures could be introduced, mutatis mutandis, in bilateral investment treaties. Alternatively, a cross-reference in particular bilateral treaties to the relevant provisions of the Fourth Lomé Convention might be a helpful reminder to the States that became party to that Convention of the type of commitments that already exist among them which could facilitate the promotion of investments on a bilateral basis.

D. General standards of treatment

20. Bilateral investment treaties invariably stipulate some or all of the following general standards: "fair and equitable treatment", "most-favoured-nation treatment" and "national treatment".

1. Fair and equitable treatment

21. The principle of "fair and equitable treatment" was originally used in the draft Havana Charter (1948) and in the OECD draft convention on the protection of foreign property (1967). It is also referred to in the Fourth Lomé Convention signed in 1989, in the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA), signed in 1985, and in the draft United Nations code of conduct on transnational corporations. A recent study on key concepts in international investment arrangements 7/ notes that there is still limited practice and arbitral jurisprudence to assist in any attempt to determine the contents of this standard. One possible approach, originally suggested by the commentary to the 1967 OECD draft convention and supported by some commentators of bilateral investment treaties, 8/ is to view this standard as covering an array of international legal principles, among them, non-discrimination, the duty of protection of foreign property by the host country and the international minimum standard. This approach, the study suggests, "might be going too far in its search for specificity". Furthermore, as the precise content of some of these principles has long been the source of much debate, it may not be very helpful to try to define "fair and equitable" treatment in terms of the "international minimum standard" and related concepts.

2. Most-favoured-nation treatment

22. Provisions prohibiting discrimination, as between States, among members of an international organization, or signatories of the same Convention, are found in several international instruments. Although the definitions of this standard in different bilateral investment treaties and other international instruments closely resemble one another, the approaches suggested in article I of the General Agreement on Tariffs and Trade (GATT), and in treaties of friendship commerce and navigation, offer examples of some interesting variations. 9/

23. One important question arising in the present context is whether the most-favoured-nation standard in a bilateral investment treaty may be applied conditionally (i.e., the treaty party becomes entitled to the treatment granted to

a third State only if it is prepared to offer to the granting State the same concessions as the third State has given) or whether it has to be extended automatically to the bilateral treaty partner, regardless of whether or not the latter has offered the same concessions as the third State has. In the first case, the most-favoured-nation clause would apply only on the basis of strict and specific reciprocity. In contrast, under the alternative approach, most-favoured-nation treatment is granted unconditionally and as such, it serves as a way of extending non-discriminatory treatment to all foreign investment. The latter approach has been applied in multilateral and regional arrangements, 10/ but this, in itself, does not necessarily mean that it will be applied in bilateral investment treaties.

24. Another important issue is whether most-favoured-nation treatment should cover all aspects of investment relations, including the grant of special concessions to individual investment projects. Clauses found in some earlier bilateral investment treaties adopt a somewhat restrictive approach to the question. So, for example, the treaty between Indonesia and Denmark provides:

> "Neither Contracting Party shall in its territory impose on the activities of enterprises in which such approved investments are made by nationals or corporations of the other Contracting Party conditions which are less favourable than those imposed in its territory on activities in connection with any similar enterprise ... owned by ... nationals or corporations of third countries." 11/

This provision differs from the usual most-favoured-nation clause in two respects. First, the provision does not refer to "treatment", but rather to the "imposition of conditions". This difference in language could be interpreted to mean that a host country is not obliged to give most-favoured-nation treatment with respect to benefits and advantages granted to investments from third countries. Secondly, the inclusion of the words "similar enterprises" could mean that investments that are different need not be subject to the imposition of similar conditions.

25. A further question arises as to whether it is the investment, the investor or both that is to receive most-favoured-nation treatment. The quoted provision, which refers to "enterprises" and the "activities of enterprises", would appear to exclude other types of investors from most-favoured-nation treatment in such matters as, for example, taxes. To guard against this result specifically, some treaties such as the treaty between the United Kingdom and Jamaica include separate provisions granting the investor and the investment most-favoured-nation status.

26. The granting of most-favoured-nation treatment in a bilateral investment treaty is of special concern to a host country if it plans or has entered into special arrangements - such as a regional grouping, common market or free trade area - that entails special privileges or commitments for investment from member countries. Unless specific exceptions are made, the effect of a most-favoured-nation clause in a bilateral investment treaty will be to extend those privileges to other bilateral treaty contracting parties even if they are not members of such special arrangements.

3. National treatment

27. As it applies in current treaty practice, the precise content of the "national treatment" standard may be established through a review of definitions commonly in use. In fact, the definitions found in international instruments and other authoritative texts are quite similar and, taken together, they furnish a clear picture of the limitations of the standard. 12/ A typical definition is found in the treaties of friendship, commerce and navigation, 13/ while similar but broader formulations are to be found in the definitions in the OECD Declaration on International Investment and Multinational Enterprises, 14/ in the Treaty of Rome (in the special context of a regional integration scheme) 15/ and the various versions of the standard proposed in several drafts of the United Nations code of conduct on transnational corporations. 16/

28. In the context of bilateral investment treaties, this is a standard to which most capital-exporting countries attach a high priority. But the grant of national treatment to foreign investors (as opposed, for example, to goods and products) raises special policy concerns in most host countries. These concerns are particularly acute in developing countries, as such treatment may enable foreign enterprises to compete in the local economy to the detriment of national enterprises. To avoid detrimental results for national investors, therefore, bilateral investment treaties have always sought to qualify, in one way or another, the application of the national treatment standard. There have been recent efforts by some States to expand the application of the national treatment standard to foreign investors by minimizing the exceptions to that standard; however, in view of the sharp differences in development levels prevailing among bilateral treaty partners, it may be necessary for most developing countries to resist those efforts.

29. In practice, national treatment clauses generally take one of two main forms. In the first, the provision mandating national treatment is specifically made subject to a number of exceptions and qualifications either within the provision itself or in separate protocols. The exceptions may be generally worded (for example, they may refer to the need to maintain public order or to measures specified in legislation relating to declared investment objectives), or they may exempt specific sectors or activities from the application of the national treatment standard. The second approach is to limit the application of the national treatment standard to a number of precise foreign investment activities. The unstated implication of this approach is that activities not so mentioned are not entitled to receive national treatment. For example, article 3 of the treaty between Japan and China provides that "the treatment accorded by either Contracting Party within its territory to nationals and companies of the other Contracting Party with respect to investments, returns, and business activities in connection with the investment shall not be less favourable than that accorded to nationals and companies of the [other] Contracting Party". The treaty then proceeds to define "business activities" as including the maintenance of branches, the control and management of companies, the employment and discharge of specialists and experts, and the making and performance of contracts. As is evident, this provision enables host countries to exclude foreign investments from subsidies and incentives granted to encourage national enterprises. Barring the formulation of exceptions, one of the most difficult issues arising in this connection with the

practical application of the national treatment standard is the determination of what amounts to a "like situation" in the specific circumstances of each investment project.

E. Transfer of payments

30. For both the investor and the host country, the provisions on currency transfers are among the most important in bilateral investment treaties. In this area, too, the approach adopted in multilateral agreements can be useful to negotiators. In instruments such as the OECD Codes of Liberalisation, the free repatriation of funds for the purpose of current payments is established as the basic rule, from which, however, various kinds of exceptions are possible. The draft United Nations code of conduct on transnational corporations also takes into account the divergent interests of both developed and developing countries on this issue. On the one hand, it calls upon corporations to obey the host country laws and regulations on payment transfers and to cooperate with government authorities in dealing with balance-of-payment crises. On the other hand, the draft code further specifies that transnational corporations have the right to transfer "all payments legally due", and provides that limitations to transfers should be restrained in content, purpose and time.

31. Capital-exporting countries usually seek specific and broad guarantees with regard not only to the general nature of the investor's rights to make monetary transfers, but also with respect to the nature of the currency with which the payment may be made, the applicable exchange rate and the time within which the host country must allow an investor to make transfers. The United States prototype treaty (art. IV) is an example of this approach. Moreover, the concept of "returns", which is often included in the definition clause, is also key to determining the breadth of the monetary transfer rights. A rather broad definition is found in the recently concluded treaty between Japan and China, as follows: "... the term 'returns' means the amounts yielded by an investment, in particular, profit, interest, capital gains, dividends, royalties and fees". 17/

32. The United States prototype provision contains a categorical obligation of transfer that does not allow a host country any flexibility in the event that its balance-of-payments situation makes it difficult, or indeed practically impossible, to permit an investor to make monetary transfers. Many bilateral investment treaties, however, take this contingency into account and allow the host country certain relief in this situation. An intermediate approach, followed in most bilateral investment treaties signed by the United Kingdom, is to grant exceptional measures in cases of balance-of-payments difficulties, but limited to a certain percentage of the transfer and for a certain period of time only. Yet another approach confers the right to make monetary transfers, but within the terms of the exchange control law of the host country (see, e.g., the treaty between Japan and China, art. 8, para. 2).

F. Performance requirements

33. Except for the specific standards stated in the treaty, most operational aspects of the investment are left to be determined by the laws of the host country. Thus, bilateral investment treaties are usually silent about such matters as performance requirements, employment of local personnel, use of credit facilities and disclosure of information. Sometimes, however, treaties may provide for "sympathetic consideration" for entry, sojourn and employment of foreign nationals in connection with the investment (Federal Republic of Germany-Dominica treaty). However, the United States approach, as reflected in its prototype treaty, 18/ is to seek to obtain treaty rights with respect to a number of operational matters, such as, for example, right of entry and sojourn of aliens for the purpose of operating the investment and employment. In contrast, the policy of many countries, including the United States, is to encourage or give priority to the employment of their own nationals.

34. Where the State gives priority to the employment of its nationals, the grant of an unlimited right to foreign investors to employ any person regardless of nationality may conflict with national policy. Not surprisingly, therefore, some countries have, in practice, succeeded in limiting or qualifying this right through the negotiation process. For example, the United States treaty with Zaire adds the following language immediately after the "prototype" provision on entry and sojourn of aliens: "This provision shall not be construed to confer rights with respect to the entry and sojourn of persons in the territory of either Party, except as provided by national law". 19/ This type of limitation could be further extended to cases where adequately trained nationals of the host country are available to be hired by the foreign enterprise.

35. Another significant new approach found in the United States prototype treaty is its attempt to eliminate performance requirements through bilateral investment treaties. Thus, article II, paragraph 5, of the prototype treaty states:

> "Neither Party shall impose performance requirements as a condition of establishment, expansion or maintenance of investments, which require or enforce commitments to export goods produced, or which specify that goods or services must be purchased locally, or which impose any other similar requirements".

Such a categoric commitment often conflicts with established national economic policies and objectives. Here, too, countries have succeeded through the negotiation process in changing the thrust of this provision from an obligation on the host country to a "best-endeavour" standard. The above-mentioned treaty between the United States and Zaire is an example:

> "Within the context of its national economic policies and goals, each Party shall endeavor to avoid imposing on the investments of nationals or companies of the other Party conditions which require the export of goods produced or the purchase of goods and services locally. This provision shall not preclude the right of either Party to impose restrictions on the importation of goods and services into their respective territories." 20/

36. It may be noted that, if the Uruguay Round of multilateral trade negotiations succeeds in concluding an agreement on trade-related investment measures, it could impose a number of obligations on GATT member States in this area. However, it is unlikely that these obligations, at least in an initial phase, will involve an across-the-board lifting of performance requirements in developing countries.

G. Dispossession of the investor

37. One of the original objectives of bilateral investment treaties was to protect investors against nationalization. The taking of property of foreign investors by Governments of host countries has been one of the major concerns in investment relations, particularly in those with developing countries. World economic and political conditions have evolved considerably over the years and, although some debate persists, particularly with respect to the standard of compensation to be paid to the dispossessed investor, much of the discussion may be primarily of symbolic importance at the present time. At the multilateral level, one approach to the issue of compensation upon expropriation is the formulation contained in the latest text of the draft United Nations code of conduct on transnational corporations (E/1990/94, annex, para. 55), which represents a compromise among the different views held by Governments on this matter:

> "It is acknowledged that States have the right to nationalize or expropriate the assets of a transnational corporation operating in their territories, and that adequate compensation is to be paid by the State concerned, in accordance with the applicable legal rules and principles."

38. The formulations used in two recent treaties may be illustrative with respect to other approaches to this issue. Article 5 of the treaty between Japan and China provides:

> "2. Investments and returns of nationals and companies of either Contracting Party shall not be subjected to expropriation, nationalization or any other measure the effects of which would be similar to expropriation or nationalization, within the territory of the other Contracting Party unless such measures are taken for a public purpose and in accordance with laws and regulations, are not discriminatory, and are taken against compensation.
>
> "...
>
> "4. Nationals and companies of either Contracting Party whose investments and returns are subjected to expropriation, nationalization or any other measures the effect of which would be similar to expropriation or nationalization shall have the right of access to the competent courts of justice and administrative tribunals and agencies of the other Contracting Party taking the measures concerning such measures and the amount of compensation in accordance with the applicable laws and regulations of such other Contracting Party."

39. On the other hand, article V of the treaty between the United Kingdom and Costa Rica states:

> "Investments of nationals or companies of either Contracting Party shall not be nationalized, expropriated, or subjected to measures having effect equivalent to nationalization or expropriation ... in the territory of the other Contracting Party except for a public purpose related to the internal needs of that Party and against prompt, adequate, and effective compensation. Such compensation shall amount to the market value of the investment expropriated immediately before the expropriation became public knowledge, shall include interest at a normal commercial rate until the date of payment, shall be made without delay, be effectively realizable and be freely transferable. The national or company affected shall have the right, under the law of the Contracting Party making the expropriation, to prompt review by a judicial or other independent authority of that Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this paragraph." 21/

Although this provision of the treaty between the United Kingdom and Costa Rica uses the same elements as the above-quoted article from the treaty between Japan and China, there are important differences. First, the latter treaty requires that the expropriation be for a public purpose "related to the internal needs" of the host country, a provision that would arguably prevent it from taking property for foreign policy reasons, such as retaliation for international conflict with another country. Secondly, the standard of review under the latter treaty is more strict in that such review must be prompt, independent and apply the principles of the treaty. Indeed, the treaty between Japan and China does not specifically require a review of the expropriation, but it gives the injured investor access to local courts or agencies. The meaning of "access" is not clear, but one might easily argue that it does imply that a court or tribunal is obliged to review the case.

40. Another major question relates to the standard of compensation. The treaty between the United Kingdom and Costa Rica adopts the Hull formula of "prompt, adequate and effective" compensation. On the other hand, the Japan-China formula states:

> "3. ... compensation ... shall be such as to place the nationals and companies in the same financial position as that in which [they] would have been if expropriation ... had not taken place. Such compensation shall be paid without delay. It shall be effective, realizable and freely transferable at the exchange rate in effect on the date used for the determination of amount of compensation."

Neither of these provisions prescribes the payment of interest and might allow less than fair market value.

H. Settlement of disputes

41. The current trend in bilateral investment treaties is to provide for mechanisms to resolve disputes between individual foreign investors and the host country Government. In many cases, that mechanism is the dispute settlement facilities of the International Centre for the Settlement of Investment Disputes (ICSID) created by the Washington Convention of 1965. Among the new treaties, the relevant clause of the treaty between Venezuela and Italy, signed in 1990, deserves special attention. 22/ It provides that, in the first instance, disputes between investors and the host Government should, as far as possible, be resolved by friendly consultations. If these consultations are not successful, the dispute shall be submitted to the competent judicial or administrative authority of the host country. Should the dispute remain unsettled after 18 months from the date of the notification of proceedings in the host country, it may then be submitted to international arbitration. To that end, the contracting parties grant irrevocable authorization for all disputes to be submitted to international arbitration in the foregoing terms. The treaty mentions two possible arbitration tribunals: ICSID and "ad hoc" arbitration to be set up in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL). The treaty provides further that the parties to the dispute shall abstain from recourse to diplomatic protection while any such dispute is sub judice. This clause represents a historic compromise between the main tenets of the Calvo Doctrine, which insists on the settlement of disputes by national courts, and recourse to international arbitration, which is indispensable to most private investors in industrialized countries.

42. The bilateral investment treaty between the USSR and France, signed in 1989, provides also for disputes between investors and the host Government to be settled by an international arbitration tribunal to be established under the rules of UNCITRAL. 23/ The treaty between Poland and the Federal Republic of Germany, signed in 1989, sets up its own procedural rules on the conduct in arbitration for disputes between investors and the host State. 24/

I. Standards of corporate behaviour

43. Existing bilateral investment treaties focus on the rights and privileges of foreign investors but say nothing about their obligations to the host country. None the less, inappropriate behaviour by foreign investors is a matter of concern for host countries, and domestic law alone may not be adequate to deal with the behaviour of a transnational enterprise. Among the areas of concern to host countries are corrupt acts, unwarranted interference in the domestic political process, environmental damage, tax evasion, and restrictive business practices, to name a few. In approaching this problem, it might be useful to keep in mind that a number of multilateral and regional instruments have succeeded in elaborating important standards that reflect the reasonable expectations of the international community concerning ways in which foreign investors should conduct their operations in host countries. The OECD Guidelines on Multinational Enterprises have stated a number of general concepts, principles and standards in this regard. At the present time, they form an integral part of the international framework on

foreign direct investment. On a broader base, the draft United Nations code of conduct on transnational corporations, still under negotiation, contains similar standards. In addition, a number of issue-specific instruments prescribe concrete standards on matters that are essential for the effective and harmonious operation of these corporations across borders; these include standards on accounting and reporting, environment and consumer protection, restrictive business practices, labour relations and illicit payments. Most signatories of bilateral investment treaties are also party to some, if not most, of these instruments. It might be considered whether the effectiveness and balance of these treaties could be enhanced by introducing some of these standards as part of the provisions of bilateral investment treaties, or by acknowledging these standards by way of cross-references, as appropriate.

III. CONCLUSIONS

44. The proliferation of bilateral investment treaties in recent years reflects the general recognition of the importance of foreign investment flows in the economic strategies of capital-importing countries in all regions of the world. Bilateral investment treaties have, therefore, become important mechanisms for the protection of foreign direct investment. However, they are not a substitute for a comprehensive multilateral regime on foreign investment. The need for a multilateral instrument, such as the code of conduct, which prescribes standards of corporate conduct as well as minimum standards for the treatment of foreign investors and transnational corporations, persists. Furthermore, bilateral investment treaties could be more effective in assuring one of their avowed objectives, namely, the promotion of foreign investment, by incorporating concrete provisions in this regard.

Notes

1/ Bilateral Investment Treaties (United Nations publication, Sales No. E.88.II.A.1).

2/ The purpose of this summary discussion is to highlight some of the most significant findings of the new study by the Centre on the negotiation of bilateral investment treaties, thus setting the stage for meaningful discussions in this area.

3/ Agreement between Japan and the People's Republic of China concerning the Encouragement and Reciprocal Protection of Investment (August 1988), art. 1, para. 4.

4/ Treaty between the Republic of Zaire and the United States of America concerning the Reciprocal Encouragement and Protection of Investment (August 1984), article I (b).

5/ See "Contemporary practice of the United States", American Journal of International Law, vol. 84, No. 4 (October 1990), pp. 895-902.

Notes (continued)

6/ The complete text of the Fourth ACP-EC Convention (signed on 15 December 1989) is reproduced in The Courier, African-Caribbean-Pacific-European Community, No. 120, March-April 1990.

7/ Key Concepts in International Investment Arrangements and Their Relevance to Negotiations on International Transactions in Services, Current Studies, Series A, No. 13 (United Nations publication, Sales No. E.90.II.A.3).

8/ Organisation for Economic Co-operation and Development, "1967 draft convention on the protection of foreign property", International Legal Materials, vol. I (1968), p. 120, comments to art. I. Also see the declaration to that effect of the Swiss Department of External Affairs, Annuaire suisse de droit international (1980), p. 172. See, also, Huu-Tru, Nguyen, "Le reseau Suisse d'accords bilateraux d'encouragement et de protection des investissements", Revue générale de droit international public, vol. 92 (1988), p. 577 and 604-614.

9/ See, for example, Treaty of Friendship, Commerce and Navigation between the United States and Ireland, 21 January 1950, art. XXI, para. 2; General Agreement on Tariffs and Trade, in United Nations Treaty Series, vol. 55, No. 814, art. I, p. 194; "Draft articles on the most-favoured-nation-treatment clause, article 5, International Law Commission Report", International Law Commission Yearbook, vol. II, part 2 (1978), p. 21.

10/ See General Agreement on Tariffs and Trade, art. I.

11/ Bilateral Investment Treaty between Indonesia and Denmark, signed on 30 January 1968.

12/ On the scope and operation of the national treatment standard, see Key Concepts in International Investment Arrangements ...

13/ Treaty of Friendship, Commerce and Navigation between the United States and Ireland ..., art. XXI, para. 1.

14/ Organisation for Economic Co-operation and Development, International Investment and Multinational Enterprises: The OECD Guidelines for International Enterprises (Paris, 1986), pp. 9-10.

15/ Treaty Establishing the European Community, United Nations Treaty Series, vol. 298, No. 4300, art. 7, p. 17.

16/ See the 1983, 1988 and 1990 draft texts of the United Nations code of conduct on transnational corporations (E/C.10/1983/S.5/Rev.1, annex IV; E/1988/39/Add.1, appendix; and E/1990/94, annex, respectively).

17/ Bilateral investment treaty between Japan and the People's Republic of China (August 1988), art. I, para. 2.

Notes (continued)

18/ United States prototype treaty (1984 version) in Bilateral Investment Treaties ..., art. II, para. 3.

19/ Treaty between the United States and Zaire (August 1984), art. II, para. 5 (b).

20/ Ibid., art. II, para. 7.

21/ Bilateral investment treaty between the United Kingdom and Costa Rica, signed in September 1982, art. V, para. 1.

22/ Bilateral investment treaty between Venezuela and Italy, signed in June 1990, art. 8, paras. 1-4.

23/ Bilateral investment treaty between France and the USSR, signed in July 1989, art. 7.

24/ Bilateral investment treaty between the Federal Republic of Germany and Poland, signed in November 1989, art. 11.

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TRANSNATIONAL CORPORATIONS IN SOUTH AFRICA

Report prepared by the United Nations Centre on
Transnational Corporations

SUMMARY

Disinvestment from South Africa continued in 1990, at a slow pace. With significant steps in the right direction being taken by South Africa, the call for new economic sanctions was put on hold, and there were no new pressures for corporations to divest. Most Governments maintained existing measures, and in instances where sanctions have been relaxed, there has as yet been no reinvestment. By and large, a "wait-and-see" attitude characterizes the activities of transnational corporations and of many of their home Governments.

On other fronts, South Africa's burden of heavy capital outflows, required to repay the foreign debt, has been relieved somewhat by both a rising trade surplus and the 1989 rescheduling agreement. But the economy is currently in recession, and the lack of foreign funds for investment is hurting. In a post-apartheid era, however, implementation of a key challenge will be the effective training programmes for black South Africans.

* E/C.10/1991/1.

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INTRODUCTION

1. The process of change commenced in South Africa in 1990. The year began with the release of African National Congress (ANC) leader Nelson Mandela, the lifting of the ban on political organizations and a partial lifting of the state of emergency, which later ended throughout the country. Preliminary discussions between the ANC and the South African Government have since laid the groundwork for the beginning of negotiations. Significant agreements were made in February 1991 concerning the release of political prisoners and the return of political exiles without conditions. The South African Government is, thus, undertaking some of the steps envisaged by the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by the General Assembly in its resolution S-16/1, regarding the creation of a climate in which free political activity can take place. This can pave the way for future negotiations on a new constitution and the establishment of a united and non-racial society in South Africa. At this stage, however, negotiations have not begun nor have any agreements been reached on the appropriate mechanisms to draw up a new constitution.

2. Since February 1990, the South African Government has undertaken other measures designed to remove the more pernicious aspects of the apartheid system. In May 1990, the Minister for National Health and Population Development proclaimed the integration of provincial public hospital facilities. In June Parliament repealed the Reservation of Separate Amenities Act, with effect from 15 October 1990. Furthermore, some schools for whites were desegregated on a voluntary basis in January 1991. While these initiatives represent important signposts towards the abolition of apartheid, their implementation has met with difficulty, in particular due to the opposition posed by some white conservative municipalities. At the opening of Parliament on 1 February 1991, President Frederik Willem de Klerk announced that the Group Areas Act and the Land Acts would be repealed during the 1991 session of Parliament and that the Population Registration Act would be amended, with a view to its eventual repeal. In addition, the National Party is now open to South Africans of all races.

3. An issue of concern remains the continuing violence prevailing throughout South Africa, the source of which continues to be a matter of intense debate. Calls have been made on the South African Government to use effective mechanisms to control the violence and to ensure that the security forces and the judiciary carry out their duties in an impartial manner. The ongoing political process in South Africa may not always be smooth. There is no doubt that a process of change as complex as the one that South Africa is entering into will give rise to a dynamic debate on the future of the country. The legacy of apartheid has made South Africa a violent society in which a tradition of democratic debate, or a culture of human rights, does not yet exist. However, open debate is essential since it can help define not only the basic aspects of a post-apartheid society but also the incipient elements of a free democratic system. Agreements made, therefore, between the ANC and the Inkatha Freedom Party and the ANC and the Pan-Africanist Congress of Azania constitute positive steps in this ongoing process of change.

4. The positive developments outlined above have elicited changes in the attitudes and actions of some members of the international community. Although the General Assembly has recognized that changes have taken place in South Africa, it has, nevertheless, pointed out that some of the apartheid structures remain. It has, therefore, reaffirmed its commitment to maintaining pressure on South Africa until profound and irreversible changes have occurred in that country, in accordance with the provisions of the Declaration on Apartheid.

5. The present report reviews current measures relating to the activities of transnational corporations in South Africa. Their impact on the South African economy is also reviewed, by way of an update of recent trends in investment, trade and finance. Finally, in line with the recommendations of the Panel of Eminent Persons, which conducted the second Public Hearings on the Activities of Transnational Corporations in South Africa and Namibia (Geneva, 4-6 September 1989) and at its sixteenth session, section III of the present report of the Commission on Transnational Corporations, prepared by the Centre on Transnational Corporations, consists of a preliminary discussion of training, including the involvement of transnational corporations in educational programmes and on-the-job training for black South Africans.

I. CURRENT MEASURES

6. Overall, since the report of the Centre on Transnational Corporations to the last session of the Commission, there has been almost a total absence of new restrictive measures taken by the international community on South Africa. One initiative was the adoption, on 14 December 1989 at the sixteenth special session of the General Assembly, of resolution S-16/1, which contained the Declaration on Apartheid and Its Destructive Consequences in Southern Africa. During its reconvened session in September 1990, the General Assembly, in resolution 44/244, called upon "all Governments and intergovernmental organizations to adhere strictly to the programme of action ... by maintaining existing measures aimed at encouraging the South African regime to eradicate apartheid until there is clear evidence of profound and irreversible changes, bearing in mind the objectives of the Declaration". Two months later, on 19 December 1990, the Assembly adopted resolution 45/176, an omnibus resolution which incorporated a number of points that had eluded agreement for decades. It called on Governments to employ "concerted and effective measures, particularly in the areas of economic and financial relations", to bring about the end of apartheid in South Africa.

7. The Commonwealth Committee of Foreign Ministers on Southern Africa (CFMSA), at its meeting in Abuja, Nigeria, in May 1990, adopted the Abuja Commitment, in which it reiterated that "to relax sanctions would prejudice seriously the objectives of successful negotiations. Sanctions must remain until there is clear evidence of irreversible change". 1/ In response to President de Klerk's address to Parliament, mentioned in paragraph 2 above, the Committee, meeting in London on 16 February 1991, recommended that sanctions be maintained until the Government of South Africa translated into concrete action its promises to dismantle apartheid. The Committee decided to convene in New Delhi on 30 April 1991 to assess the situation in South Africa. In Finland in March 1990, the Nordic countries

reaffirmed their commitment to maintain the embargoes they had placed on shipments of certain matériel to South Africa.

8. In June 1990 the European Parliament adopted - with a majority vote of more than 75 per cent - a strongly worded resolution on sanctions policy which countered the idea of partial or phased relaxation of European Community (EC) sanctions and called on the EC Council of Ministers to ensure that all sanctions, including those of the EC and its member States in the economic, cultural and social spheres, be continued and implemented until apartheid was completely and irrevocably abolished. The semi-annual meeting of Government Heads of the European Community, on 24 and 25 June 1990, at Dublin, Ireland, reconfirmed the decision of December 1989 that the EC and its member States would not relax sanctions. The Council would, however, consider a gradual relaxation of pressure when there was clear evidence that the process of change was continuing.

9. Six months later, the European Community, at its meeting at Rome on 15 December 1990, decided that as soon as the Government of South Africa had taken action to repeal the Group Areas Act and the Land Acts, the Community and its member States would proceed to ease the set of measures adopted in 1986. In order to encourage further reforms, the Community agreed at that time to lift its ban on new investment in South Africa. The United Kingdom had already lifted its ban in February 1990, and a majority of the Dutch Parliament agreed in September 1990 that new investment by Dutch companies should be permitted in the near future.

10. In October 1990, the President introduced in the United States Congress a report pursuant to the Comprehensive Anti-Apartheid Act of 1986, which stated that although steps taken thus far by the South African Government had met some conditions set out in the Act and might meet others in the future, before sanctions could be modified, suspended or lifted, certain statutory conditions had to be fulfilled, including the release of all political prisoners, the lifting of the state of emergency and the ban on democratic political groups, the repeal of the Group Areas Act and the Population Registration Act, and the agreement to enter into good-faith negotiations, without preconditions, with representatives of the black community. Conversely, if those conditions should be met, additional obstacles should not be placed in the way of lifting sanctions.

11. Over the past year there also appears to have been a paucity of new restrictive measures enacted by Governments. In September 1990, the United Nations canvassed Member States in a note verbale which requested information on any measures, including sanctions, adopted since August 1989. As of February 1991, 11 countries had replied: Austria, Bahamas, Byelorussian SSR, Canada, Cyprus, Norway, Pakistan, Qatar, Sweden, USSR and United Arab Emirates. The responses reiterated the commitment to sanctions until the abolition of apartheid had been achieved.

12. On 20 July 1990, the Canadian Ministry of External Affairs issued a Notice to Importers (No. 395) concerning shipments of arms from South Africa, to the effect that, from 25 April 1990, all such imports defined in Item 90 of the Canadian Government's Import Control List as belonging to Group 2 of its Export Control List would require permits.

13. Correspondence from Norway and Sweden mentioned the declaration and communiqué on South Africa issued by the Nordic Foreign Ministers' meeting at Molde, Norway, on 11 and 12 September 1990. While noting the commencement of significant, positive changes in South Africa and anticipating profound alterations in that country's system of government, the Nordic countries pointed out that the basic foundations of apartheid were still in place and that, consequently, their policy towards South Africa would continue to be based on the 1988 Nordic Programme of Action, which advocated the maintenance of pressure on the Government of South Africa until there was clear evidence of profound and irreversible change.

14. The Government of Cyprus, through that country's Central Bank, has adopted and implemented a policy which bars any business concern operating in South Africa from establishing an offshore company or investing directly in Cyprus.

II. THE SOUTH AFRICAN ECONOMY AND SANCTIONS

15. In the 10-year period up to 1972, South Africa's GDP grew at an average rate of 5.5 per cent per annum. In the next 10-year period up to 1982, GDP registered a growth rate below 3 per cent. Since 1982 growth has fluctuated, as shown in table 1, but with the exception of 1984, it has remained below the average for the preceding 10-year period and well below the 5 per cent per annum rate necessary simply to keep pace with population growth and absorb new entrants into the labour market. This deteriorating performance can be attributed to several factors: internal, including the apartheid system; and external, including sanctions and the generally adverse international economic environment of recent years. Isolating the effect of sanctions is not easy, but according to one estimate, GDP is 20-35 per cent smaller than it would have been without sanctions. 2/

16. The economy is currently in recession, with 0 GDP growth estimated for 1990-1991. The Government is committed to lowering inflation in the next two years, but that would not bring about faster economic growth. 3/ Any stimulus would therefore need to come from abroad. This section reviews trends in foreign investment, trade and bank finance. The general conclusion is that the external constraints, while by no means favourable, have been relieved somewhat by the slowdown in new disinvestment, a rising trade surplus and the 1989 debt rescheduling agreement.

Table 1. South Africa's gross domestic product

Years	Percentage
1962-1972	5.5
1972-1982	3.0
1982	-0.8
1983	-2.1
1984	5.1
1985	-1.2
1986	0.3
1987	2.1
1988	3.7
1989	2.1
1990	-0.5 a/
1991	0.5 a/

Sources: Economist Intelligence Unit, Country Profile: South Africa, 1990-1991, p. 20, and South Africa: Country Report, No. 4 (1990), p. 6.

a/ Estimated.

A. Investment

17. Direct investment by transnational corporations has continued to play a decreasing role as a source of capital for the South African economy. Although year-to-year fluctuations in the flow of foreign direct investment are not very meaningful because they are affected by changes in inflation and exchange rates, table 2 presents the long-term trend. In the case of Canada, Germany and the United States, their stock of investment for the most recent years for which data are available has declined when compared to their highs, reached sometime in the period 1981-1983. For the United Kingdom, 1987 was the first year when its foreign direct investment flows to South Africa declined. More recent data, which are not yet available, would probably show a continuing decline in these flows.

Table 2. Stocks and flows of foreign direct investment in South Africa, reported by major home country, 1981-1989

(Millions)

	United Kingdom		United States		Germany		Canada
	Stock	Flow a/	Stock	Flow	Stock	Flow	Stock
	(Pounds)		(US$)		(Deutsche mark)		(Canadian $)
1981	1 786.7 b/	291.6	2 619		1 861	56.4	257
1982	..	194.4	2 281	45	2 095	64.7	218
1983	..	296.0	1 987	-217	2 484	259.6	185
1984	2 725.00	120.3	1 440	-548	2 035	171.2	139
1985	..	199.0	1 394	-73	1 182	137.9	105
1986	..	91.0	1 517	-50	1 366	231.5	184
1987	..	46.0	1 497	-97	1 664	..	..
1988	..	..	1 269	-224	2 158	..	..
1989	..	..	714	-409	..	..	..

Sources: United States Department of Commerce, Survey of Current Business, August 1990 and various issues; United Kingdom, British Business, 11 March 1988; United Kingdom, Business Monitor MA4, Census of Overseas Assets, various issues (Her Majesty's Stationery Office); Germany, Runderlass Aussenwirtschaft (Ministry of Economics), various issues, and monthly report of the Deutsche Bundesbank, various issues; Statistics Canada, Canada's International Investment Position, and information supplied by Statistics Canada.

a/ Excluding oil for the period 1973-1983.

b/ Excluding oil, banks and insurance.

18. The trend towards disinvestment in South Africa since 1985 is corroborated by data on the number of disinvesting firms compiled by the United Nations. By 15 January 1991, approximately 632 transnational corporations based in various countries and operating in South Africa had disinvested (see table 3). Disinvestment, in terms of corporate withdrawals, has been most pronounced in the case of the United States: roughly 60 per cent of its firms have disinvested since 1985; however, one of every three departing companies has maintained non-equity ties in South Africa. The United Kingdom ranks second in disinvestment, with roughly 20 per cent of its firms having disinvested; this percentage is significant in terms of total disinvestment, since as estimated 40 per cent of foreign investment in South Africa is United Kingdom-based. Companies based in Germany 4/ have disinvested a much lower proportion of their operations.

Table 3. Transnational corporations that have disposed of their equity interests in South Africa, by country, as of 15 January 1991

Country	Number of corporations	Non-equity interests
Australia	22	4
Austria	2	--
Belgium	5	4
Canada	32	5
Denmark	2	--
Finland	2	--
France	11	5
Germany	39	13
Ireland	2	--
Italy	6	2
Luxembourg	1	--
Netherlands	10	2
New Zealand	3	--
Norway	3	--
Sweden	9	2
Switzerland	10	4
United Kingdom	144	13
United States	329	141
Total	632	194

19. The peak year of disinvestment for the United Kingdom and the United States was 1987. In that year 69 United Kingdom companies withdrew, amounting to half of their total withdrawals since 1984; 232 United States companies withdrew in that year, which amounts to about two thirds of their cumulative withdrawals. In the case of Germany, the peak year was 1988, with 21 withdrawals, amounting to about two thirds of its total withdrawals. More recently, the pace of disinvestment seems to have abated, with 42 United States-based companies, 31 United Kingdom-based companies and 21 Germany-based companies disinvesting in 1988. In 1989, only 22 United States-based firms, 7 United Kingdom-based firms and 1 Germany-based firm disinvested.

20. The decision of the European Community on 15 December 1990 to lift the ban on new corporate investments in South Africa raised the question whether and under what conditions transnational corporations would step up or renew their investment in South Africa in the near future. An initial survey of United States-based transnational corporations indicates that companies that have previously disinvested from South Africa are not likely to consider reinvestment after a possible abolition of investment restrictions, stating the low returns over the last years and negative experiences encountered during the disinvestment process. 5/ Former corporate investors that have relocated their investments to neighbouring countries in southern Africa also seem reluctant to resume their operations in South Africa, taking into consideration the consequences on employment and the impact on the economy of new host countries like Swaziland and Lesotho. The most important reason, however, especially for new investors, is the prospect of limited economic growth in South Africa in the current transition period, which makes the country far less attractive for investment than in the past or than in other regions today.

21. On the other hand, European transnationals, which traditionally had a larger share of their overall investment in South Africa, and some Asian transnational corporations already seem to be preparing the ground for new investments. According to the South African Ministry of Trade and Industry, 4.5 billion rand of new investments are expected in the automobile industry. 6/ In addition, a number of German and Dutch transnationals which have maintained their operations are now negotiating with their national and South African trade unions the conditions under which they would be expected to continue their operations. Emphasis is being placed on the upgrading of social responsibility programmes and the strengthening of labour relations.

B. Trade

22. The relative importance of South Africa's main trading partners has undergone significant shifts over the years. The United Kingdom, which in 1970 accounted for 29 per cent of South Africa's exports and 22 per cent of its imports, now accounts for less than 10 per cent. In 1989, according to OECD data which, however, cover only 55 to 65 per cent of all trade, Italy was the largest importer from South Africa, with $2.8 billion in imports. Germany was South Africa's largest exporter, with $3.2 billion in exports. (See table 4.)

Table 4. South Africa's main trading partners, 1988-1989 a/

(Millions of United States dollars)

Imports by b/	1988	1989
Italy	2 180	2 779
Japan	1 956	2 058
Germany	1 727	1 693
United States of America	1 535	1 543
United Kingdom	1 456	1 454
France	708	755
OECD total	12 096	13 369
EC total	7 404	8 170 d/

Exports by c/	1988	1989
Germany	3 331	3 258
Japan	2 047	1 744
United Kingdom	1 918	1 705
United States of America	1 692	1 672
Italy	601	673
France	581	562
OECD total	11 820	11 225 d/
EC total	7 416	7 125 d/

Source: OECD, Monthly Statistics of Foreign Trade.

a/ Data are calculated from monthly averages.

b/ Cif value at country of arrival, except United States.

c/ Fob value at point of departure.

d/ Based on 11 months' data.

23. The volume of South African products imported by other countries was 17 per cent higher in 1989 than in 1988. 7/ For purposes of comparison, the volume of world trade in 1989 expanded at approximately only 7 per cent. This favourable comparison is not unrelated to the mixed experience in the effectiveness of trade sanctions. Gold is by far the country's largest export, accounting for about 40 per cent of total exports. Machinery is the main category of imports, followed by transport equipment and chemicals.

1. Oil

24. The United Nations Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa stated in an interim report released in June 1990 that the frequency of port calls to South Africa by potential petroleum carriers is sufficient to indicate the probability of a serious loophole in the United Nations oil embargo. 8/ Trade in oil takes various forms, and not

all have been given legislative backing. Action against companies violating the embargo is infrequent; end-user certificates are not widely monitored; and penalties for violation are either weak or not imposed. As a result, oil has been flowing freely to South Africa, although at a premium cost. No official data are available, but according to evidence presented at the second Public Hearings on the Activities of Transnational Corporations in South Africa and Namibia, the cost to the Government of South Africa of obtaining necessary oil supplies may run as high as $2 billion a year.

2. Coal

25. After gold, coal exports are South Africa's second largest foreign exchange earner. Most OECD countries have reduced their coal imports in recent years. In 1989, Spain and Italy were the largest European importers of South African coal, amounting to about 5 million tons each. 9/ Italian trade unions in the electricity-generating industry have met recently to formulate a programme to reduce South African coal imports. At the same time, several non-OECD countries have begun to import coal. Overall, South Africa's coal exports reached a record 47 million tons in 1989. 10/

3. Metals

26. South Africa is the world's largest producer of platinum-group metals, vanadium, chrome, ore and andalusite, and is among the world's top five producers of manganese, vermiculite, antimony, fluorspar, asbestos and titanium. As regards the import of these strategic and other minerals and base metals, it seems that existing measures have been rather effective, at least with South Africa's traditional trading partners. This is in spite of the fact that import restrictions in some countries exempt certain minerals which may be in short supply and can only be obtained from South Africa.

27. Overall, less than 1 per cent of the European Community's imports from South Africa are covered under the existing sanctions regime. 11/ Nevertheless, according to South Africa's Trust Bank, by the end of 1989 an estimated 8 billion rand of exports had been lost as a result of trade sanctions, most notably those on coal, iron and steel, and fruit. 12/

C. Finance

28. South Africa was traditionally a net importer of capital until the 1985 debt crisis. Since 1985, it has had no choice but to run continuous current account surpluses to meet its foreign debt commitments and to curtail total demand. Economic growth averaged only 1.4 per cent between 1985 and 1989. However, it now appears that the generation of repeated large trade surpluses on the current account of the balance of payments to meet the heavy capital outflows arising from debt repayments may no longer be the overriding policy requirement, since the country's debt burden has been considerably eased.

29. At the end of 1989, the total outstanding debt burden was $20.6 billion, compared to $24 billion at the end of 1984. 13/ The real extent of repayment is even larger, as about $8 billion of the outstanding debt at the end of 1989 was denominated in non-dollar currencies - mainly, the Deutsche mark and the Swiss franc - which appreciated vis-à-vis the United States dollar. On a constant parity basis, the debt outstanding at the end of 1989 would have been only $18.2 billion. However, the dollar's relative decline since its peak in the mid 1980s has also increased the competitiveness of South African exports, mostly priced in dollars. As a result, the ratio of debt outstanding to total annual exports of goods and services has fallen from 128 per cent at the end of 1985 to 79 per cent at the end of 1989. 14/

30. In August 1985, the amount of debt inside South Africa's standstill net was $13.6 billion. It was down to $8 billion by the end of 1989 and had declined to $7.5 billion by the autumn of 1990. The three-and-a-half-year rescheduling agreement which South Africa negotiated at the end of 1989 and which runs from 1 July 1990 requires the country to repay $1.5 billion in eight tranches by the end of 1993. Another $12 billion was projected to remain outside the net; how much of that will mature in each of the next three years and be rolled over or replaced will determine the country's debt burden. It is expected that South Africa would have made net repayments of around $2 billion in 1990. This would require a current account surplus of nearly 6 billion rand (at an average exchange rate of R2.7 = $1), which is well within the capacity of the country to generate, in view of the strong export performance of the economy in 1989, as shown in table 5.

Table 5. South Africa's balance of payments, 1984-1989

(Millions of United States dollars)

	1984	1985	1986	1987	1988	1989
Merchandise exports, fob	8 746	9 186	10 969	12 353	13 848	15 097
Net gold output	7 918	6 940	7 322	8 740	8 634	7 339
Merchandise imports, fob	-14 550	-10 344	-11 173	-13 912	-17 236	-16 845
Trade balance	2 114	5 782	7 118	7 181	5 246	5 591
Exports of services	3 009	2 602	2 725	3 170	3 302	3 548
Imports of services	-6 857	-5 884	-6 860	-7 540	-7 428	-7 779
Net transfer	229	161	169	212	173	203
Current account balance	-1 504	2 660	3 151	3 022	1 293	1 564
Long-term capital	1 737	-220	-1 340	-834	-463	-468
Short-term capital not related to reserves	-1 201	-3 944	-1 330	-673	-2 469	-1 653
Liabilities related to reserves	367	930	-1 000	-573	847	1 090
SDR allocations and valuation adjustments	842	808	434	162	248	-454
Change in gross gold and other foreign reserves	241	254	-85	1 103	-544	77

/...

III. POST-APARTHEID SOUTH AFRICA: THE ROLE OF TRANSNATIONAL CORPORATIONS IN TRAINING

31. A post-apartheid government will likely have a wide electoral mandate for affirmative action in the fields of housing health care, education and skills training and for the rapid advancement of black South Africans in the public and private sectors. This section examines the role transnational corporations can play in training by helping black South Africans acquire the technical and managerial skills that will enhance their capacity to participate effectively in politics and the economy; and by helping to meet the growing demand for jobs. 15/ It will, of course, be the prerogative of a post-apartheid Government to determine the nature and scope of that role.

32. Over the past year, leading black organizations, as they debate how best to integrate the economy, have expressed expectations for corporations to train black South Africans for and advance them to high-level positions, to contribute to meeting the nation's housing and education needs and to increase the share of economic assets owned by Africans. Addressing foreign investors, Thabo Mbeki, ANC international affairs director, called for affirmative action and urged corporations to become aware of the country's development goals and the need to address inequalities in their investment decisions. 16/ The ANC urged the South African business community to accept the ANC principle of affirmative action as an instrument for achieving development, growth and equity to redress economic imbalances. 17/ The Pan-Africanist Congress also stressed the need for companies to "aggressively pursue" corporate social responsibility. 18/ Trade unions, whose negotiating strategies once focused primarily on wages and working conditions, are now emphasizing training programmes and advancement opportunities for their members.

33. Corporate responsibility programmes in South Africa have been implemented since 1976 under the various codes of conduct. Initially, those guidelines, drawn up by corporate headquarters or home-country Governments, focused on issues such as equal pay for equal work, desegregation of the work-place and recognition of trade unions. In the 1980s the Sullivan Code for United States transnational corporations emphasized three principles: black managerial advancement, community development and social justice. The most far-reaching code today, however, is the agreement between the National Union of Metal Workers of South Africa, NUMSA, and the German Metal Workers Union, IG-Metall, which was drawn up in 1988, listing 14 points related to the minimum levels of acceptable industrial relations and conditions under which subsidiaries of German companies should operate in South Africa. Notwithstanding the continued call for sanctions and disinvestment, the union movement emphasizes the need to control foreign direct investment in South Africa, not only in regard to the terms of exit but also the terms of entry and the conditions under which transnational corporations should operate in the country.

34. There is no consensus yet among the black organizations and the major corporations on the need to negotiate a code of conduct that would apply throughout South Africa. Initial discussions, however, seem to indicate that corporate social responsibility has to be based on a new set of principles developed within the country and to take into account the views of black leaders, trade unions and the local business community. Given South Africa's demographic prospects, the business

community will be expected to devote more resources and commitment to the education, training and development of black South Africans in the future. The African population is expanding at nearly 3 per cent per year, three times the rate of whites. By the year 2000 there will be 12 million more black South Africans, bringing the current total of 27.5 million (1989 population estimates, including independent homelands) to 41 million, and white South Africans will be outnumbered 10 to 1. 19/ Thus the point of departure for a discussion of a framework for future operations of TNCs must be corporate responsibility programmes that aim at structural change and development relevant to post-apartheid South Africa.

A. Training needs

35. At present in South Africa a serious imbalance exists between education and training and the demands of the labour market inherent in the system of apartheid. There is a chronic shortage of skilled and semi-skilled workers. The Government's National Manpower Commission estimates the current shortage of mangerial, professional and technical workers at over 250,000. South Africa has 23,000 artisans in training when it should have 100,000. 20/ Most companies have claimed that over 30 per cent of their African staff are in clerical, supervisory or managerial positions; the majority of black South African employees, however, are still in posts at the lower end of the scale. 21/ Although black participation in all economic spheres has increased in recent years in terms of income share and consumer expenditure, as well as in the area of collective bargaining, 22/ this participation has not occurred in the entrepreneurial sector owing to lack of resources and training capacity and existing restrictions. In addition, in the 1980s employment in agriculture, mining and manufacturing did not grow at all; while there was an average annual increase of 230,000 new job-seekers on the market, only 80,000 new jobs had been created per year. 23/ For the year 2000, the economically active population is estimated at 17.9 million, with an expected 7.9 million unemployed. Current unemployment among black South Africans is estimated to be 19 per cent, almost half of them under 24, and underemployment is twice as high. 24/ In order to reduce unemployment and absorb new entrants into the labour market, the economy needs to grow by 5 per cent annually. Over recent years, the informal sector of the South African economy has emerged as the single largest generator of employment and is believed to account for 20 per cent to 40 per cent of GDP. Of the 350,000 people entering the job market every year, the proportion absorbed in the informal sector may be as high as 150,000, or 42 per cent, while about 100,000 enter the formal small-business sector.

36. Only now is the South African Government coming to grips with the task of compiling and disseminating adequate statistics to allow the long-term projection of training goals and target groups. Studies are under way to examine the participation of all racial groups in the different levels of the South African labour market and to determine the future training requirements a non-racial democratic government would have to cope with. One priority field of research lies in the examination of the role of appropriate institutions for human resource development and strategies to mobilize support throughout the international community for a post-apartheid South Africa in order to meet the educational and training needs of its society.

B. The role of transnational corporations

37. At present, training activities of the approximately 600 transnational corporations currently operating in South Africa reach only a small fraction of the total work force, amounting to less than 200,000 workers. The on-the-job skills and management training programmes carried out by transnational corporations are mostly of a voluntary nature and are designed to meet the demands of each company's specific operations. Transnational corporations also provide funds for upgrading formal education and supporting entrepreneurship development programmes on a limited basis. In a canvass of 129 companies (many of them transnational corporations) conducted by the Institute of International Education in June 1990, 125 responded, citing a total of more than 3,500 initiatives by transnational corporations and the South African business community in more programme categories, including the fields of education, community and small-business development, literacy and health. 25/ Data available on United Nations transnational corporations indicate that 70 per cent of corporate responsibility contributions in South Africa have gone to education; 65 per cent of that supported tertiary education. 26/ Despite the reporting requirements under the various codes, no comprehensive data are available on training opportunities and the actual advancement of trained black South Africans, which makes it difficult to assess current transnational corporations training efforts.

38. Management development can facilitate black participation in politics and in the mainstream of the economy. It is also argued that management development may have, as a by-product, a major political role in the reduction of racial polarization. A step in this direction has been taken by transnational corporations operating in South Africa which subscribe to the various codes of conduct. Today, however, less than 5 per cent of all South African managers employed by white-owned companies are Asian, coloured and African. 27/ A forthcoming study by the Investor Responsibility Reseach Center on the performance of American transnational corporations under the existing code of conduct concludes that success in promoting Africans to managerial positions has been very limited. 28/ The lack of progress, aside from the socio-political restrictions stemming from the system of apartheid, is attributed to the lack of willingness and vision to formulate a long-term approach. Affirmative action by transnational corporations in management training would have to go beyond existing voluntary efforts to redress the imbalances created by apartheid.

39. Aside from management training, transnational corporations can be involved in other forms of training that foster the acquiring or enhancement of work skills. Skills training also includes topics such as training in the agricultural and industrial sectors, training of work seekers, the handicapped and unemployed persons, training for self-employment, training in the small business sector, training in labour relations, training of trainers, and management training. It is therefore difficult to assess the quantitative needs of skills training related to the activities of transnational corporations and the contributions they have made so far. The key actor in the field of skills training has been the South African Government. In recent years, however, individual employers and private training institutions have been encouraged to play a more active role in training. In 1987 there were 893 registered schemes managed by employers, including transnational

corporations, to train their employees. As stated earlier, owing to the relatively small workforce employed by transnational corporations, their contribution to skills training in South Africa is limited. However, transnational corporations are participating in the design of training guidelines and programmes of the Sectoral Industrial Training Boards and are contributing funds and expertise to South African training institutions.

40. The promotion of entrepreneurship, both in the formal and informal sectors, presents an additional opportunity for black advancement, beyond the enhancement of private- and public-sector employment. 29/ Indeed, given the demographic trend projected for the next 10 years the capability of Africans to assume self-employment, and consequently to create employment, must be enhanced. Although the South African Government has started to remove legal constraints to non-white business development, Africans participating in the formal sectors of the economy still face severe disadvantages. In recent years, transnational corporations, on an individual basis, have supported financial assistance programmes run by non-governmental organizations for African entrepreneurs or initiated subcontracting arrangements with small business enterprises. There have already been some successful efforts by the Get Ahead Foundation, the Small Business Development Corporation of South Africa, the Canadian Association for Black Businesses and the Canadian Export Association in bringing together black South African businessman and executives of larger companies and helping to open doors for South African black entrepreneurs. Such matchmaker programmes, though successful, are still very small relative to the demand of South African black entrepreneurs for assistance in starting up their companies.

41. Taking into particular consideration the growing urbanization of the black South African work force, entrepreneurship development will be an important factor in the creation of metropolitan jobs. Aside from the elimination of government regulations limiting black business activities, nascent black entrepreneurs will need technical and managerial know-how and financial resources to start and run their own businesses successfully. According to the Small Business Development Corporation of South Africa, more than 200,000 requests for assistance to entrepreneurial companies and existing non-white small businesses go unmet every year for lack of resources and training capacity.

C. Entrepreneurship and management training

42. Should a post-apartheid Government in South Africa decide to involve transnational corporations more actively in the field of training and entrepreneurship development, programmes and guidelines will have to be designed in close consultation with the companies, the local business community and the trade unions. An effective training programme should allow transnational corporations the flexibility to concentrate efforts on their specific fields of expertise.

43. The broad aim of any comprehensive training programme would be to target the residual unemployed and equip them to enter the sector of the economy that would become critically short of labour in a post-apartheid society - the middle-sector managerial and vocational groups. What is needed is the phasing in and the adequate building up of senior personnel with the training, experience and

competence to rise to high-level management positions. This process should accomplish three goals: the training of skilled labour, the development of managerial skills and the fostering of entrepreneurship.

44. A well-designed, internationally supported programme, aimed at mobilizing the entrepreneurial spirit in South Africa and assisting black South Africans to set up their own enterprises and develop their managerial talents, could complement existing efforts, provide an instrument to actively involve local organizations, trade unions and transnational corporations, and stimulate new initiatives that may contribute to enhanced training of black South Africans. Such a programme has yet to come into being, but a feasibility study entitled "The potential role of transnational corporations in a comprehensive long-term training programme for a post-apartheid South Africa" and conducted by the United Nations Centre on Transnational Corporations suggests that it could include:

(a) Public/private sector institutional infrastructure bringing together local and international co-sponsors, universities, training institutes, bankers, local businesses and transnational corporations executives to oversee the programme;

(b) An outreach campaign aimed at mobilizing the entrepreneurial talent in South Africa and identifying the most promising black entrepreneurs;

(c) Training workshops to strengthen entrepreneurial and managerial talents and to build the skills needed to develop a business plan and operate a small or medium-scale business;

(d) Training of black South African trainers to develop the national capacity in entrepreneurship and management training;

(e) A self-financing support centre to provide follow-up assistance to the new ventures, initiate contacts with the local business community and transnational corporations, and secure technical and financial help;

(f) A management training component, involving workshops and on-the-job training by transnational corporations both in South Africa and in their home countries;

(g) Formation of entrepreneurs' associations to exchange and disseminate information and to stimulate joint ventures among South African entrepreneurs and cross-border ventures with other African entrepreneurs and transnational corporations.

45. Although such a programme would not meet all training needs in South Africa, it could achieve measurable results over time. Efforts could be intensified at the same time as the national training capacity is being developed. South Africans could become trainers in entrepreneurship and management training, and self-sustaining infrastructure could be in place to carry on the programme and extend it to all regions of the country. In addition, it could play a catalytic role by mobilizing local resources and enabling local training organizations to improve and expand their own activities in entrepreneurship and management development at the appropriate time.

46. To sum up, in a post-apartheid South Africa, transnational corporations could contribute to the empowerment of black South Africans by building up professional and managerial cadres and enhancing entrepreneurial involvement in the private sector. Guidelines for affirmative action in the field of training should foster the efforts and expenditures of transnational corporations on programmes which would enable a greater portion of the black population to play a role in mainstream economic development. In addition, by focusing on management and entrepreneurship training programmes, transnational corporations would be in the best position to channel their expertise and technical and managerial know-how, as well as funding.

47. A feasibility study of a comprehensive training programme for black South Africans would need to determine further the role of transnational corporations in training and should also take into account the training requirements of the southern African region. To that end, a fact-finding mission or on-site hearings could be undertaken at the appropriate time to define the scope and nature of corporate responsibility programmes, with the participation of black leaders, trade unions, the local business community, transnational corporations and other non-governmental and other international organizations active in this field.

Notes

1/ Commonwealth News Release, "Abuja Commitment" (Abuja, 17 May 1990).

2/ Study released in May 1990 by IRRC, The New York Times, 30 June 1990.

3/ Economist Intelligence Unit, Country Profile: South Africa, 1990-1991, p. 28.

4/ Through accession of the German Democratic Republic to the Federal Republic of Germany with effect from 3 October 1990, the two German States have united to form one sovereign State. As from the date of unification, the Federal Republic of Germany acts in the United Nations under the designation of "Germany".

5/ The New York Times, 28 October 1990.

6/ Report of the Special Committee against Apartheid (A/45/22-S/21953, 21 November 1990), p. 55.

7/ The New York Times, 28 October 1990.

8/ "Report of the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa" (A/45/43-S/21946), p. 12.

9/ Shipping Research Bureau, Coal Monitor, No. 4 (Third quarter, 1990).

10/ Economist Intelligence Unit, Country Report: South Africa, No. 7 (1990), p. 26.

11/ Economist, 17 February 1990, p. 43.

Notes (continued)

12/ Ibid., 10 February 1990, p. 69.

13/ Economist Intelligence Unit, Country Report: South Africa, No. 3 (1990).

14/ Ibid., p. 18.

15/ This section has been prepared in response to action taken by the Commission on Transnational Corporations at its sixteenth session whereby the Secretary-General was requested, inter alia, to undertake a feasibility study for a training programme for black South Africans (E/1990/26, para. 53).

16/ Business Day, 1 November 1990.

17/ Whitney Schneidman, "Black groups eye corporate responsibility", IRRC South African Reporter (December 1990).

18/ James Henry, "No easy way to freedom", Annual Meeting News (Abidjan) (1990).

19/ Quoted by Kennedy Maxwell in his outgoing annual address to the Chamber of Mines in June 1990, in Economist Intelligency Unit, Country Report: South Africa, No. 3 (1990), p. 20.

20/ Financial Times, 10 September 1990.

21/ Bethlehem, Ronald, "The need for change in the South African economy" (26 April 1990).

22/ Financial Times, 10 September 1990.

23/ New Republic, 20 and 27 August 1990.

24/ "Corporate social investment in South Africa", South African Information Exchange Working Paper No. 15 (December 1990).

25/ Cross Times (May 1990).

26/ Linda Herman, "Empowerment through development: the role of affirmative action and management development in the demise of apartheid", Centre for African Management, 1990.

27/ Whitney Schneidman, "American corporations and the transition to a post-apartheid South Africa", IRRC, 1991 (forthcoming).

28/ Cross Times (May 1990).

29/ Financial Times, 26 October 1990.

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TRANSNATIONAL CORPORATIONS

Transnational corporations with interests in South Africa

Report of the Secretary-General

SUMMARY

Despite the large amount of disinvestment to date, some 550 to 600 transnational corporations remain active in South Africa, employing approximately 175,000 individuals. In addition, many companies that have disposed of their equity holdings still maintain a variety of non-equity links to South Africa, ranging from trade mark use to buy-back options.

The current report attempts to provide a picture of equity and non-equity investment in South Africa, by country, in the form of two lists: the first on transnational corporations which have disposed of their equity interests in or have less than a 10 per cent equity interest in a company or companies in South Africa, and the second on those which retain equity interests of more than 10 per cent in a company or companies there.

* E/C.10/1991/1.

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INTRODUCTION

1. The present report updates the lists of transnational corporations operating in South Africa issued in 1985, 1988 (E/1988/23 and Corr.1-3 of 8 February 1988) and 1989 (E/1989/17 of 3 March 1989 and E/C.10/AC.4/1989/8 of 18 August 1989, respectively). It is prepared in accordance with Economic and Social Council resolution 1990/70 of 27 July 1990.

2. Publicly available material such as annual reports, company directories, business and trade directories, specialized publications and business newspapers and magazines, supplies information for the updating of the lists. Prominent sources include Who Owns Whom (London, Dun and Bradstreet Ltd.); Handbuch der Grossunternehmen and Konzerne in Schaubildern (Darmstadt, Hoppenstedt); Unified List of United States Companies Doing Business in South Africa (New York, American Committee on Africa); International Business in South Africa and U.S. Business in South Africa (Washington, D.C., Investor Responsibility Research Center); Principal International Businesses (New York, Dun and Bradstreet International); McGregor's Who Owns Whom; The Investors' Handbook (Cape Town, Juta); The Bankers' Almanac (East Grinstead, Reed Information Services); The Financial Mail (Johannesburg); The Economist (London); The Financial Times (London); The Wall Street Journal (New York); and The New York Times.

3. Based on data gathered from these sources, among others, and on the 1989 list of corporations active in South Africa, letters requesting verification were sent to the companies concerned, with a request to confirm the information and, wherever applicable, to provide corrections. The letters specified that the data would be assumed to be accurate if no corrections were received by 31 January 1991 at the latest.

4. Transnational corporations that have disposed of their equity interests in South Africa appear in list 1, together with a notation on the presence of non-equity interests, when known, and on currently inactive "shell" companies. From this list it may be possible to gauge the large number of businesses that have disinvested in the formal sense, yet have retained non-equity ties of one kind or another. These include franchising, distribution, sales, use of trade mark or trade name, and technology transfer, and entail far less financial outlay and political opprobrium from the international community for the parent company than do equity holdings.

5. When comparing data for the three countries with the largest number of investments in South Africa, the United States of America, the United Kingdom of Great Britain and Northern Ireland, and Germany, one arrives at the following figures:

Country	Cumulative numbers of disinvestments			
	1985	1988	1989	1990
United States	18	252	314	329
United Kingdom	25	92	131	144
Germany	5	10	32	39
Other countries	16	68	116	120
Total	64	422	593	632

6. List 2 presents businesses that have been identified as holding a direct or indirect equity ownership of more than 10 per cent in one or more subsidiaries/affiliates in South Africa. Sometimes both transnational parent corporations and their subsidiaries/affiliates are listed if the two are known to operate independently of one another and to control operations in South Africa. Transnational corporations in the process of disposing of their interests and those which have reduced them are so identified in footnotes. In cases where conflicting information existed and/or confirmation could not be obtained, a company's name was not included in list 2. The lists contained in previous reports and the current one are not strictly comparable because some companies which were not listed earlier have been included.

7. Despite the large number of disinvesting companies, which reached a peak between 1986 and early 1988, 43 per cent of the disinvesting United States-based firms, 9 per cent of the United Kingdom-based firms, 33 per cent of the Germany-based firms, and 23 per cent of the firms based in other countries maintain non-equity links to South Africa. It may be appropriate to note here that information is generally more readily available on the United States businesses retaining non-equity ties to South Africa than on those of the United Kingdom, Germany and most other home countries. In some cases, such as that of Mobil Corporation, the Government of South Africa has made company disinvestment contingent upon the retention of non-equity ties.

List 1. Companies which have disposed of their equity interests in South Africa

Australia

Clyde Industries Ltd. a/, b/
The Colonial Mutual Life Assurance Society Ltd.
(Comeng Holdings) now ANI Corporation Ltd. a/
Commonwealth Industrial Gases Ltd.
Elders IXL Ltd.
Evergreen International Group
General Publishers Ltd.
The Hanimex Group Ltd. a/
Henselite (Australia) Pty. Ltd.
(Leichardt Exploration Ltd.)
(Monier Ltd.) subsidiary of BTR Australia Ltd.
National Mutual Life Association
Nicholas Kiwi Australasia Ltd.
(Nylex Corporation) parent: BTR Australia Ltd.
(Pioneer Concrete Services Ltd.) parent: Pioneer International Ltd. b/
(Placer Holdings Ltd.) parent: Placer Development Ltd.
(Reckitt & Colman Australia Ltd.) parent: Reckitt & Colman PLC (United Kingdom)
Repco Corporation Ltd.
Sunbeam Corporation
Tubemakers of Australia
(George Weston Foods Ltd.) parent: Wittington Investments Ltd. (United Kingdom)
(Wormald International) parent: Tyco Laboratories Inc. (United States) a/

Austria

Mayr-Melnhof Karton GmbH

Belgium

Ateliers de Constructions Electriques de Charleroi SA (ACEC) a/
Bekaert NV a/
Kredietbank NV a/
Lastek NV
Petrofina SA a/

Canada

Alcan Aluminium Ltd. a/
(AMCA International Ltd.) parent: Canadian Pacific Ltd.
Barrick Resources
(Barringer Research Ltd.) owned by Barringer Resources Ltd. (United States) b/
Bata Ltd.
Bauer and Crosby Inc.
J. K. S. Boyles International Ltd. a/
(C.I.L. Inc.) parent: Imperial Chemical Industries of Canada Ltd.

Canada (continued)

Canada Development Corporation
Canadian Pacific Ltd. a/
Champion Road Machinery Ltd. a/
Cobra Metals and Minerals Inc.
Cominco Ltd.
Convexco Ltd.
Delcan-de Leeuw Cather Ltd. (Delcanda)
Dominion Textile Inc.
Falconbridge Ltd. b/
(Ford Motor Company of Canada) parent: Ford Motor Company (United States)
(G. T. Fulford Company Ltd.) owned by Bank in Liechtenstein AG
ICS Construction Ltd.
Inco Ltd.
Jarvis Clark and Company
Moore Corporation
National Business Systems Inc.
Noranda Inc.
QIT-Fer et Titane Inc.
(Reed Stenhouse Companies Ltd.) parent: Alexander & Alexander Services (United States)
Scintrex Ltd.
The Seagram Company Ltd. a/, b/
The Thomson Corporation
Varity Corporation
(George Weston Ltd.) parent: Wittington Investments Ltd. (United Kingdom)

Denmark

Aarhus Oliefabrik A/S
Fisker & Nielsen A/S

Finland

Kymmene Corporation
Kymi-Strömberg Oy

France

(Financière Alcatel SA) up to 62.5 per cent owned by Compagnie Générale d'Electricité SA (CGE) (France) a/
Générale des Etablissements Michelin, Cie b/
Hachette SA a/
Leroy Somer
(Martell et Cie SA) subsidiary of the Seagram Company (Canada)
Pernod Ricard
Plastic Omnium Compagnie b/
Régie Nationale des Usines Renault SA a/
SEB SA a/

France (continued)

(Spie Batignolles) parent: Parisienne d'Entreprises et de Participations SA (SPEP)
Thomson SA a/

Germany

Atlas Weyhausen Maschinen GmbH a/
(Brown Boveri and Cie. AG) parent: BBC AG (Switzerland)
Bullmerwerk G.O. Stumpf GmbH a/
Durr GmbH
Xaver Fendt & Co. Maschinen-und Schlepperfabrik
Festo KG a/
Graphitwerk Kropfmühl AG
Dr. Johannes Heidenhain GmbH a/
Franz Haniel & Cie. GmbH
Wilhelm Hegenscheidt GmbH Werkzeugmaschinenfabrik
Kaefer Isoliertechnik GmbH & Co. KG
Kleinewefers GmbH
Klöcknerwerke AG
Klöckner-Humboldt Deutz AG a/
Krause Offset Systems KG
Dr. Küttner GmbH & Co. KG b/
(Langbein-Pfannhäuser-Werke AG) parent: Omni Holding AG (Switzerland)
Linde AG
Eugen Lutz GmbH & Co. Maschinenfabrik
Munk & Schmitz GmbH & Co.
Norman Rassmann GmbH & Co.
Otavi Minen AG a/
PSB Arnfried Pagel Ing. Spezialbeton-Fabriken GmbH & Co. KG a/
Dr. Ing. H. C. F. Porsche AG a/
William Prym-Werke GmbH & Co. KG
Rheinisch-Westfälisches Elektrizitätswerk AG a/
Rosenthal AG a/
Ruf International GmbH & Co. KG
W & W Schenk GmbH & Co. KG
Schwan Stabilo GmbH
Solo Kleinmotoren GmbH a/
Stal-Astra GmbH a/
Taprogge GmbH a/
Ultrakust Electronic GmbH
VIAG AG (Vereinigte Industrie Aktien Gesellschaft) b/
VDO b/
Weserhütte AG
Fr. Winkler GmbH & Co. KG
(Otto Wolf AG) parent: Thyssen AG

Ireland

Biocon Biochemicals Ltd.
M. F. Kent & Co. Ltd.

Italy

(Alfa Romeo SpA) parent: Fiat SpA
Banco di Roma
Officine Meccaniche Danieli & C. SpA
Fiat SpA a/
(Carlo Gavazzi Impianti SpA) parent: Carlo Gavazzi Holding AG (Switzerland)
Kartell SpA a/

Luxembourg

Cinzano International SA

Netherlands

Akzo Pharma BV
Grasso's Koninklijke Maschinenfabrieken NV
(Hoogovens Handel Constructiestaal BV) parent: Koninklijke Nederlandsche Hoogovens en Staalfabrieken NV
Koninklijke Nijverdaal-Ten Cate NV
Nationale Nederlanden BV
Océ-van der Grinten NV a/
(Royal Ten-Cate NV) parent: SHV Holdings NV
SHV Holdings NV
Gemeenschappelijke Bezit VRG NV a/

New Zealand

(A. Turner & Company Ltd.) parent: Ollie Turner Enterprises (New Zealand)
CNZI Corporation
(The New Zealand South British Group Ltd.) parent: NZI Corporation

Norway

Chr. Bjelland & Co. A/S
Elkem A/S
Hafslund A/S

Sweden

Aktiebolaget AGB
Alfa Laval AB a/
Investment Bahco AB
Esab AB
Esselte AB
The Axel Johnson Group
Rederiaktiebolaget Transatlantic
Saab-Scania AB
Swedish Match AB a/

Switzerland

Birkart Transport AG
E.G.O. Elektrogeräte AG
Forbo AG a/
Fryma-Maschinen AG
Hermes Precisa International SA
Interfina AG a/
(Jacobs Suchard AG) parent: Philip Morris Inc. (United States)
Pelikan Holding AG
Adolf Saurer AG
Wagner International AG

United Kingdom of Great Britain and Northern Ireland

Abacus Electronic Holdings PLC
Adwest Group PLC
Alexander Fraser & Son Ltd.
Alexon Group PLC
Allied Colloids Group PLC
Allied-Lyons PLC a/
Armstrong Equipment PLC
Ashe Consumer Products Ltd.
(Aspro-Nicholas PLC) parent: Sara Lee Corporation (United States)
(Associated British Foods Ltd.) parent: Wittington Investments Ltd.
Associated Paper Industries PLC
Austin Knight Ltd.
Autocue Holdings Ltd.
BBA Group PLC a/
The B & A Engineering Company Ltd.
BICC PLC
BMM Weston Ltd.
The BSS Group PLC
Barclays Bank PLC
Barlow Gibb U.K. Ltd.
Henry Barrett Group PLC a/
Bartlett Group Ltd.
Bass PLC a/
Berger Jenson & Nicholson
Bestobell PLC
Brent Chemicals International PLC
British Airways a/
British Steel PLC
British Vita PLC a/
H. Bronnley & Company Ltd.
(The Bronx Engineering PLC) taken over by Verson International Group PLC
(David Brown Corporation PLC) parent: Tenneco International Holdings
H. P. Bulmer Holdings PLC
(James Burrough Distillers PLC) taken over by Whitbread & Company PLC
(Cap Group PLC) parent: SEMA Group PLC

United Kingdom (continued)

CCL Group PLC
Cable & Wireless PLC
C & J Clark Ltd.
(Centrovincial Estates Ltd.) parent: Ford Sellar Morris Properties PLC
A. Cohen & Co. PLC
Columbia (International) Ltd.
(Concrete Utilities Ltd.) parent: C.U. Ware PLC
Conder Group PLC
(Cow & Gate Ltd.) parent: Nutricia Holdings Ltd.
(Crown House PLC) majority shareholder: Coloroll Group PLC
Dawson International PLC
James H. Dennis and Company Ltd.
The Dowty Group PLC
(Ellerman Lines PLC), subsidiary of Trafalgar House PLC
(Elders Keep Ltd.) now Riggs Keep Ltd.
(Emhart International) parent: Emhart Corporation (United States)
(English China Clays PLC) parent: ECC Group PLC
(Esperanza International Services PLC) parent: Inchcape PLC
Esselte Business Systems Holdings Ltd.
(Exchem PLC) parent: Explosifs et de Produits Chimiques SA (France)
(FBC Ltd.) parent: Schering AG (Germany)
Ferguson Industrial Holdings PLC
Thomas French & Sons PLC
Gallaher Ltd.
Gordon & Gotch Holdings PLC
(Gripperods Holdings Ltd.) parent: C. H. Industrial PLC
A. W. Hamilton Ltd.
(Hay Management Consultants) parent: Saatchi & Saatchi Company PLC (United Kingdom)
Hepworth PLC a/
(Hoechst U.K. Ltd.) parent: Hoechst AG (Germany)
(Hoover PLC) parent: Maytag Corporation (United States)
Hopkinsons Holdings PLC
(Huntley & Palmer Ltd.) parent: RJR Nabisco (United States)
(Illingworth, Morris PLC) parent: Hartley Investment Trust Ltd.
(Imperial Continental Gas Association)
Inchcape PLC
Instrumental Colour Systems Ltd.
(Jardine Matheson Holdings Ltd.) changed its name to Matheson & Company Ltd.
Kalamazoo PLC a/
Legal and General PLC
(London Shop Property Trust PLC) parent: Peel Holdings PLC
Lopex PLC
MB Group PLC a/
MK Electric Group PLC
MS International PLC
(MacPherson PLC) majority shareholder: Kemira Oy (Finland)
Manders PLC
(The Marmon Group Ltd.) parent: Marmon Holdings Inc. (United States)

United Kingdom (continued)

Marshalls Halifax PLC
Alfred McAlpine PLC
Meggitt PLC
Mercury Securities PLC
Midland Bank PLC
(Mitchell Cotts PLC) parent: Suter PLC
Mobbs Miller Ltd.
John Mowlem & Company PLC
NSM PLC
National Employers' Mutual General Insurance Association Ltd.
Neepsend PLC
(Newey Group Ltd.) parent: William Prym-Werke GmbH & Co. KG (Germany)
Newman Tonks Group PLC
The Organisation Development Group Ltd.
P A Holdings Ltd. b/
(Pearl Group PLC) parent: Australian Mutual Provident Society (Australia)
Pergamon Holdings PLC
(Perivale Gütermann Ltd.) parent: Interfina AG (Switzerland)
(Philbro-Salomon (United Kingdom) Ltd.) parent: Salomon Inc. (United States)
Platignum PLC
(The Prestige Group PLC) parent: Gallaher Ltd.
(Pritchard Services Group PLC) parent: ADT Group PLC
(Rank Xerox Ltd.) parent: Xerox Inc. (United States)
Derek Raphael & Company Ltd.
Redland PLC
Richardsons Westgarth PLC
(Rover Group Holdings PLC) parent: British Aerospace a/
Saatchi & Saatchi Company PLC a/
(Salfords Holdings Ltd.) ultimate shareholder: Barclays PLC
(Samuelson Group PLC) parent: Eagle Trust PLC
Sanderson Murray & Elder Holdings PLC
Sears PLC
Serco Ltd.
Simon Engineering PLC
Smith's Industries Ltd.
(Sotheby's) parent: Sotheby's International Holdings Inc. (United States)
Standard Chartered Bank PLC
Staveley Industries PLC a/
(Stewart Wrightson Ltd.) parent: Willis Faber PLC
(Stone International PLC) parent: FKI PLC a/
(Systime Computers Ltd.) parent: Control Data Inc. (United States)
Szerelmey International Ltd.
Tarmac PLC
(The Thomson Corporation PLC) parent: the Thomson Corporation (Canada)
Transport Development Group PLC
Trustee Savings Bank Central Board (TSB Group)
Trusthouse Forte PLC
(Twinlock PLC) parent: American Brands Inc. (United States) a/

United Kingdom (continued)

United Biscuits (Holdings) PLC
United Spring & Steel Group PLC
(United Wire Group PLC) parent: Scapa Group PLC
(Valor PLC) changed its name to Yale & Valor PLC
Vickers PLC
Thomas Walker PLC
S. G. Warburg Group PLC
Andrew Weir & Company Ltd. b/
Whessoe PLC
Whitbread & Company PLC b/
(Wilkinson Sword Group Ltd.) parent: Swedish Match Holdings
Williams Holdings PLC
Winn & Coales International Ltd.

United States of America

AMAX Inc.
(ACF Industries Inc.) parent: Heron Investors Plan Inc.
(AGL Corporation) parent: Australian Gas and Light Company (Australia)
(AMF Corporation) parent: Irvin L. Jacobs through the private company Minstar
AMR Corporation (parent company of American Airlines)
(APL Ltd. Partnerships) parent: NVF Corporation
Abercombie & Kent International Inc.
Air Products and Chemicals Inc. a/
(Aladdin International Corporation) acquired by Dainippon Ink and Chemicals Inc. (Japan)
Alexander & Alexander Services Inc.
Allegheny International Inc.
Allied Signal Inc. a/
Allis-Chalmers Corporation
Amdahl Corporation a/
American Brands Inc. a/
American Express Company a/
American International Group Inc.
American Home Products a/
American Optical Company (parent company of UKO International; see list 2, United Kingdom)
(American Standard Inc.) parent: Kelso & Co.
Amerifin Corporation
(Ameritech) now American Information Technologies Corporation
Arthur Andersen & Company
Anderson Clayton Corporation
(Ansul Company) now Wormald US Inc. parent: Wormald International Ltd. (Australia)
Apple Computer
Applied Power Inc. a/
Armco Inc. a/
Ashland Oil Inc.
Associated Metals & Minerals Corporation

United States (continued)

(Automatic Switch Company) now owned by Emerson Electric Company (United States)
(BBDO International) renamed Omnicon Group
(BCI Holdings Group) parent: BCE Inc. (Canada)
Banner Industries Inc.
Bardahl Manufacturing Corporation a/
(Ted Bates Worldwide Inc.) renamed Backer Spielvogel Bates Worldwide Inc. and owned by Saatchi & Saatchi Co. PLC
Bausch & Lomb Inc. a/
Baxter International Inc. a/
Beatrice Company
Bechtel Group Inc.
Becton Dickinson and Company
Bell & Howell Company
Berkshire Hathaway Inc. a/, b/
Bethlehem Steel Corporation
The Bicostal Corporation (formerly The Singer Company) a/
Binks Manufacturing Corporation a/
The Black & Decker Corporation a/
The Black Clawson Company b/
(Blue Bell Inc.) now owned by V. F. Corporation (United States) a/
The Boeing Corporation a/
Borg-Warner Corporation
Born Inc.
Bourns Inc. a/
Boyden International Inc. a/
Bradley Corporation
(Bristol Babcock Inc.) parent: FKI PLC (United Kingdom)
Leonard J. Buck & Company Inc.
Bundy Corporation
D. W. Busby
CBS Inc.
CIGNA Corporation
CPC International Inc. a/
Capital Cities/ABC International Inc.
(The Carborundum Company) parent: British Petroleum (United Kingdom)
Cargill Inc. a/
(Carnation Company) now owned by Nestlé SA
Celanese Corporation
Chase Manhattan Bank a/
Chemed Corporation
(Chicago Pacific Corporation) parent: Maytag Corporation
(Chicago Pneumatic Tool Company) parent: Danaher Corporation
Chrysler Corporation
Citicorp a/
City Investing Company
Clark Equipment Company a/
The Coca-Cola Corporation a/

United States (continued)

Columbus McKinnon Corporation a/
(Combustion Engineering) now owned by Asea Brown Boveri (Switzerland)
Computer Sciences Corporation
(Conoco Inc.) parent: E. I. du Pont de Nemours & Company (United States)
Consolidated Freightways Inc. (acquired Emery Air Freight Corporation) a/
Continental Corporation (formerly Continental Insurance Company)
Continental Grain Company
Control Data Corporation a/
Cooper Industries Inc. a/
Corning Inc. (formerly Corning Glass Works) a/
Corroon & Black Corporation
Crane Company
Cummins Engine Company Inc. a/
(DHJ Industries) now owned by Dominion Textiles Inc. (Canada)
(Dames & Moore Inc.) parent: Hochtief AG (Germany)
Dana Corporation
Danaher Corporation
D'Arcy Masius Benton & Bowles Inc. a/
Darmex Inc. a/
(Davy McKee Corporation) parent: Davy Corporation (United Kingdom)
Delaware North Companies Inc.
(Deltak Inc.) now owned by National Education Corporation a/
Deloitte & Touche
Dentsply International
(Denver Equipment Company) parent: Joy Technologies Inc.
Diamond Shamrock Corporation
Dibrell Brothers Inc. (parent company of Florimex Verwaltungsgesellschaft mbH, formerly in table 2, Germany)
Do-All Company
Dr. Pepper Company
Dow Chemical Company a/
(The Dow Corning Corporation) joint venture between the Dow Chemical Company and the Corning Glass Works
Dravo Corporation
Dukane Corporation a/
The Dun & Bradstreet Corporation
(Eastern Airlines Inc.) acquired by Texas Air Corporation a/
(Eastern Stainless Steel) now Eastmet Corporation
Eastman Kodak Company a/
Eaton Corporation a/
(Ecolaire) owned by Joy Technologies Inc. (United States)
Emerson Electric Company
(Emhart Corporation) acquired by Black & Decker Corporation a/
Engelhard Corporation a/
Ernst & Young
Erico International Corporation
Exxon Corporation a/
(Eyedentify Inc.) parent: PacifiCorp

United States (continued)

FMC Corporation a/
(Fairchild Industries Inc.) now owned by Banner Industries Inc. (United States) a/
Farrell Lines Inc. b/
Federal-Mogul Corporation a/
Fenix & Scisson Inc.
Figgie International Holdings Inc.
(Firestone Tire & Rubber Company) acquired by Bridgestone Corporation (Japan) a/
John Fluke Manufacturing Company Inc. a/
Fluor Corporation a/
Ford Motor Company a/
Foster Wheeler Corporation a/
(Foxboro Company) acquired by Siebe PLC (United Kingdom) in 7/1990 a/
(Fram Corporation) parent: Allied-Signal Corporation
Fruehauf Corporation
GAF Corporation a/
GATX Corporation
GRC International Inc. (formerly Flow General Inc.)
GTE Corporation a/
(GTE Valenite Corporation) parent: GTE Corporation
The Gates Corporation a/
(The Gates Rubber Corporation) merged with the Gates Corporation
(Gelco CTI Container Corporation) acquired by General Electric Corporation
General Automation Inc.
General Electric Corporation a/
(General Foods Corporation) acquired by Philip Morris Companies Inc. a/
General Motors Corporation a/
General Signal Corporation a/
(General Tire Inc.) renamed Gencorp. General Tire Inc. branch acquired by Continental AG (Germany) a/
A. J. Gerrard and Company
(Gilbarco Inc.) acquired by Exxon Corporation
Gilbert Associates Inc.
(Gilbert Commonwealth International Inc.) parent: Gilbert Associates Inc.
Goulds Pumps Inc. (parent company of Morris Pumps) a/
W. R. Grace & Company a/
Grant Thornton International
(Grolier Inc.) parent: Hachette SA (France) a/
Frank B. Hall Inc.
Halle & Stieglitz Inc.
Harcourt Brace Jovanovich Inc.
The Harper Group a/
(Hay Associates Inc.) acquired by Saatchi & Saatchi Company PLC; renamed the Hays Group PLC in 1986
Healthdyne Inc.
Heinemann Electric Company a/
H. J. Heinz Company a/
(Walter E. Heller International Corporation) acquired by the Fuji Bank (Japan)
Hewlett Packard Company a/

United States (continued)

Honeywell Inc. a/
E. F. Houghton & Company a/
(Hussmann International Inc.) acquired by (IC International); renamed Whitman Corporation
ICC Industries Inc.
(ICS International Inc.) owned by National Education Corporation a/
(IMS International Inc.) acquired by the Dun & Bradstreet Corporation
ITT Corporation a/
Illinois Tool Works
Intergraph Corporation a/
International Business Machines Corporation a/
(International Harvester Company) split between Navistar International Corporation and Tenneco Inc.
(International Minerals & Chemical Corporation) renamed IMCERA Group Inc. a/
International Playtex Inc. a/
(International Staple & Machine Company) parent: American Brands Inc.
Johnson Controls Inc.
Jordache Enterprises Inc.
Kay Corporation
Kelso & Company Inc. (parent company of American Standard Inc. and the Trane Corporation)
Kendavis Holding Company Inc. a/
Kennametal Inc. a/, b/
(Keyes Fibre Corporation) parent: Royal Packaging Industries van Leer (Netherlands) a/
(Kidder, Peabody and Company Inc.) acquired by General Electric Company through Gelco CTI Container Corporation
(Koppers Company Inc.) now owned by Beazer Materials & Services Inc.; ultimate parent: Beazer PLC (United Kingdom)
(Kraft Inc.) acquired by Philip Morris
Loews Corporation
Lord Corporation a/
Lovable Company a/
Macmillan Inc.
Manpower Inc.
Manufacturers Hanover Corporation a/
Manville Corporation a/
Marmon Holdings Inc.
Marriott Corporation a/
Marsh & McLennan Companies Inc. a/
Martin Marietta Corporation
(Master Builders Inc.) parent: Sandoz AG (Switzerland)
Maytag Corporation (parents: Chicago Pacific Corporation and the Hoover Company) a/
McDonnell Douglas Corporation a/
McGraw Hill Inc.
Measurex Corporation a/
Medtronic Inc. a/
(Memorex Corporation) parent: Memorex Telex NV (Netherlands), but United States shareholders and entities control the majority of the company a/

United States (continued)

Merck & Company Inc. a/
(Geo J. Meyer Corporation) parent: Figgie International Holdings Inc.
Millipore Corporation a/
Mine Safety Appliances
Mobil Corporation a/
Morton International Inc.
Motorola Inc.
NACCO Industries Inc. (parent of the Hyster Company) a/
NCH Corporation
NCR Corporation a/
NCNB Corporation a/
Nashua Corporation a/
National Education Corporation a/
(National Mine Service Company Inc.) controlled by Charter Consolidated PLC (in which Anglo American has a 36 per cent interest)
National Standard Company
Navistar International Corporation (formerly International Harvester Inc.)
Newmont Mining Corporation
(The A. C. Nielsen Company) now owned by the Dun & Bradstreet Corporation
Nord Resources Corporation
(Norton Company) parent: Compagnie de Saint-Gobain SA (France) a/
Oak Industries Inc. a/
Oakite Products Ltd. a/
Occidental Petroleum Company
The Oldemburg Group Inc. (parent of W. R. Stamler Inc.) a/
Oppenheimer Intercontinental Corporation a/
Owens Corning Fiberglass Corporation
Ozite Corporation
PHH Group Inc.
PacifiCorp Inc.
PanAm World Airways Inc. a/
Pantera's Group a/
(Peat Marwick Mair & Company) now merged with another company and renamed KPMG Peat Marwick
The PennCentral Corporation (parent of the [Marathon LeTourneau Company]) a/
Pennwalt Corporation
Pepsico Inc. a/
The Perkin-Elmer Corporation a/
(Philbro-Salomon Inc.) now Salomon Inc.
Phillips Petroleum Company
Pittston Company (parent of WTC Inc.) a/
Playtex Family Products Corporation a/
Polaroid Corporation
Premix Inc.
Primerica Corporation (formerly American Can Company)
Procter & Gamble Company a/
The Pullman Company a/
Purex Industries Inc.

United States (continued)

Quantel Corporation (formerly Mohawk Data Sciences Corporation)
Raychem Corporation a/
(RJR Nabisco Inc.) now owned by Kohlberg Kravis Roberts Inc. a/
Redken Laboratories Inc. a/
(Rexnord Inc.) parent: Banner Industries Inc.
Reynolds & Reynolds Company a/
(Richardson-Vicks Inc.) parent: Procter & Gamble Company
(A. H. Robins Company Inc.) acquired by American Home Products Corporation a/
Rockwell International Corporation
Rohm and Haas Company a/
Rorer Group a/
(Helena Rubinstein) acquired by L'Oréal SA
SPS Technologies Inc. a/
The St. Paul Companies a/
(St. Regis Corporation) acquired by Champion International Corporation
Salem Corporation a/
Sara Lee Corporation a/
Schenectady Chemicals Inc. a/
(Scholl-Plough Inc.) parent: Schering-Plough Corporation
(Scott Foresman and Company) parent: Harper & Row Publishers Inc.
(Scovill Inc.) parent: First City Financial Corporation Ltd. (Canada)
E. W. Scripps Company
Sealed Air Corporation a/
(Sedco Inc.) parent: Raytheon Company; see list 2 (United States)
The Sentry Corporation
Sequa Corporation
Skok Systems Inc.
Smith International Inc.
Southdown Inc. (parent of Moore McCormack Resources Inc. [Canada])
Sotheby's Holdings Inc. a/
Spalding & Evenflo Companies Inc.
Square D Company a/
The Stanley Works
L. S. Starrett & Company a/
Steiner Corporation a/
(Sterling Drug Inc.) acquired by Eastman Kodak Company a/
Stone & Webster Inc.
(Stratoflex Inc.) acquired by Parker Hannifin Corporation a/
(Sullair Corporation) parent: Sundstrand Corporation
(Sun Chemical Corporation) parent: Dainippon Ink & Chemicals (Japan)
Sundstrand Corporation a/
Sybron Corporation
TRW Inc. a/
Tambrands Inc. a/
Teledyne Inc.
Thomas & Betts Corporation
Tidwell Industries a/
Times Mirror Inc. (parent: the Sunpapers Baltimore; previously in list 2 [United States])

United States (continued)

(Titanium Industries Inc.) parent: Allegheny International Inc.
(Touche, Ross & Company) merged with Deloitte, Haskins & Sells to form Deloitte & Touche
(Trans Union Corporation) parent: Marmon Holdings Inc.
Trade & Industry Corporation Inc.
(Twentieth Century-Fox Film Corporation) acquired by the News Corporation Ltd. (Australia) a/
Tyco Laboratories Inc. (parent of Wormald International Ltd. [Australia]) a/
UAL Corporation (formerly Allegis Corporation [United States])
USX Corporation a/
(Uniroyal Inc.) liquidated
Unisys Corporation a/
(Utah International) acquired by BHP Holdings (Australia)
V. F. Corporation a/
Valmont Industries Inc. a/
Vendo Company
Wang Laboratories
(Warner Communications Inc.) now merged with Time Inc. to form Time Warner Inc. a/
Wendy's International
(West Point Pepperell Inc.) acquired by Farley Inc.
Westinghouse Electric Corporation a/
Weyerhaeuser Company a/
(White Motor Corporation) liquidated in 1981 and partially acquired by Volvo AB
(W. A. Whitney Company) now owned by Esterline Corporation
John Wiley and Sons Inc. a/
Xerox Corporation a/
Zapata Corporation

Note: Companies in parentheses are subsidiaries.

Notes

a/ Company retains non-equity links.

b/ Company has a subsidiary in South Africa which is at present inactive.

List 2. Companies with equity interests in South Africa of more than 10 per cent

Australia

(BTR Australia Ltd.) parent: BTR PLC (United Kingdom)
The Broken Hill Proprietary Company Ltd.
G. C. F. Investments
Goodman Fielder Wattie Ltd.
The News Corporation
Siddons Ramset Ltd.
TNT Ltd.

Austria

Ludwig Engel KG
Plasser & Theurer Export von Bahnbaumaschinen GmbH

Belgium

(Franki SA NV) parent: Société Générale de Belgique SA
UCB SA

Canada

(Bayer Foreign Investments Ltd.) parent: Bayer AG (Germany)
Menora Resources Inc.
(Sternson Ltd.) parent: Princeton Holding Ltd.
Unican Security Systems Ltd.

Denmark

Novo Nordisk A/S b/
Sophus Berendsen A/S

France

L'Air Liquide SA
Assurances Générales de France SA
(Carbone-Lorraine SA) majority shareholder: Pechiney SA
Chargeurs SA
Dollfus-Mieg & Cie SA
Financière de Suez, Cie
Générale d'Electricité SA, Cie
Rhône-Poulenc SA
(Schneider SA) majority shareholder: Société Parisienne d'Entreprises et de Participations SA (SPEP)
Total Compagnie Française des Pétroles SA

Germany

Allianz AG
BASF AG
J. H. Bachmann GmbH & Co.
Bayer AG
Bayerische Motoren Werke AG
Bekum Maschinenfabriken GmbH
Bochumer Eisenhütte Heintsmann GmbH & Co.
Dr. Th. Boehme KG, Chemische Fabrik GmbH & Co. KG
Robert Bosch GmbH
Buerkert GmbH & Co. KG
DLW AG
Daimler-Benz AG
Degussa AG
Deutsche Babcock AG
Deutsche Bundesbahn
Deutsche Steinindustrie AG
Didier-Werke AG
FAG Kugelfischer Georg Schaefer & Co. KG
C. & E. Fein GmbH & Co.
A. Friedrich Flender AG
Fördertechnik Hamburg Harry Lossig GmbH & Co. KG
Freudenberg & Co.
GEA Luftkühlergesellschaft Happel GmbH & Co.
Gedore Werkzeugfabrik Otto Dowidat
Gildemeister AG
Karl O. Helm AG
Hermann Hemscheidt Maschinenfabrik GmbH
Henkel KG AA
Hirschmann Verwaltungs GmbH
Hoechst AG
Philipp Holzmann AG
Hüttenes Albertus Chemische Werke GmbH
Industrieaufbaugesellschaft Schaeffler KG
Industrie-Werke Karlsruhe Augsburg AG
Klein Pumpen GmbH; majority shareholder of KSB AG
Klöckner-Moeller Gruppe
Klöckner Werke AG
Knorr-Bremse KG
Ludwig Krohne GmbH & Co. KG
Friedrich Krupp GmbH
MAN AG
Mannesmann AG
E. Merck Beteiligungen oHG
Metallgesellschaft AG
Miele & Cie. GmbH & Co. a/
Münchner Rückversicherungsgesellschaft
(A. Nattermann & Cie. GmbH) parent: Rhône-Poulenc SA
Neckar Drahtwerke GmbH

Germany (continued)

(Nixdorf Computer AG) majority shareholder: Siemens AG
Norddeutsche Affinerie AG
(Orenstein & Koppel AG) parent: Hoesch AG
Pennekamp & Husker KG
G. M. Pfaff AG
Preussag AG
(Rheinhütte vorm. Ludwig Beck GmbH & Co.) parent: Cremer & Breuer Verwaltungs GmbH & Co.
(Ringsdorff-Werke GmbH) ultimate shareholder: Hoechst AG via Sigri GmbH
(Salzgitter AG) majority shareholder: Preussag AG
Schering AG
Johannes Schaefer vorm. Stettiner Schraubenwerke GmbH & Co. KG
R. & G. Schmöle Metallwerke GmbH & Co.
L. Schuler GmbH
Siemens AG
(Sigri GmbH) parent: Hoechst AG
J. S. Staedtler GmbH & Co.
Süd-Chemie AG
Thyssen AG vorm. August Thyssen-Hütte
Gebrüder Trox GmbH
Uhlmann & Co. KG b/
Volkswagenwerk AG
Wieland-Werke AG
Adolf Würth GmbH & Co. KG
Zeppelin-Stiftung
Zimmermann & Jansen GmbH

Italy

"Generali": Assicurazioni Generali SpA
Ente Nazionali Idrocarburi (ENI)
Istituto per la Ricostruzione Industriale (I.R.I.) b/
Montedison SpA
Ing. Olivetti & C. SpA

Netherlands

Internatio-Müller
Gemeenschappelijk Bezit van Aandelen en Philips' Gloeilampenfabrieken NV
Koninklijke Nederlandsche Petroleum Maatschappij NV (Royal Dutch Petroleum Company)
Koninklijke Nedloyd Groep NV
(Maatschappij van Berkel's Patent NV) parent: General Electric Company PLC
Royal Packaging Industries van Leer BV
Unilever NV

Portugal

Banco National Ultramarino

Spain

Pescanova SA

Sweden

Atlas Copco AB
Incentive AB
SKF AB
Sandvik AB
Trelleborg AB
Waertsilae Oy AB

Switzerland

ABB Asea Brown Boveri Ltd.
Birkart Transport AG
Gebrüder Bühler AG
Ciba-Geigy AG
Danzas AG
Hesta AG
Hoffmann-LaRoche & Co. AG
Hermes Precisa International SA
"Holderbank" Financière Glaris AG
Kühne & Nagel International AG
Liebherr-International AG
Nestlé SA
Oerlikon-Bührle Holding AG
Sandoz AG
Schindler Holding AG
Schweizerische Aluminium AG (Alusuisse)
Schweizerische Rückversicherungsgesellschaft
Spedag Speditions AG
STAG Aktien Gesellschaft
Willi Studer AG
Gebrueder Sulzer AG
Swissair, Schweizerische Luftverkehr AG
"Winterthur" Schweizerische Versicherungsgesellschaft

United Kingdom of Great Britain and Northern Ireland

(ABB Kent Holdings) parent: ABB Asea Brown Boveri Ltd.
A.P.V. PLC a/
(Addis Ltd.) parent: Addis BV (Netherlands)
(Addison-Wesley-Longman Ltd.) parent: Pearson PLC
(Albright & Wilson Ltd.) parent: Tenneco International Holding Ltd.
(Amalgamated Metal Corporation Ltd.) acquired by Preussag AG
(Anderson Strathclyde Ltd.) parent: Charter Consolidated PLC
(The Associated Octel Company Ltd.) 51 per cent owned by Great Lakes Chemical Europe (Great Lakes Chemical Inc.) (United States); 36.7 per cent owned by the Shell Transport & Trading Company PLC

United Kingdom (continued)

(Automotive Products Ltd.) parent: the BBA Group PLC
B.A.T. Industries PLC
BET PLC a/
BPB Industries Ltd.
BTR PLC
The BOC Group PLC
Babcock International PLC
(Bardsey PLC) parent: the Beckenham Group PLC
(Beecham Group PLC) merged with SmithKline Beecham PLC
(Bifurcated Engineering PLC) parent: Clayhithe PLC
Blackwood Hodge Ltd.
Blue Circle Industries PLC
The Boots Company PLC
Bowater Industries PLC
Bowthorpe Holdings PLC
The British Aviation Insurance Company PLC
The British & Commonwealth Holding PLC
The British Petroleum Company PLC a/
(Brooke Bond Group PLC) parent: Unilever PLC
Brown Shipley Holdings PLC
(Bunge & Company Ltd.) parent: Oronte SA (Panama)
The Burmah Oil PLC
Bush Boake Allen
(Cable Belt Ltd.) owned by the Laird Group PLC
Cadbury Schweppes PLC
(Candles Ltd.) parent: the Shell Transport and Trading Company PLC
Cazenove & Company
Century Oils Group PLC
(Chamberlain Phipps PLC) now owned by Evode Group PLC
Charter Consolidated PLC
(Chicago Pneumatic Holdings Ltd.) acquired by Atlas Copco AB
Chloride Group PLC
(Coates Brothers PLC) parent: Orkem Coatings, which is a subsidiary of Orkem SA (France)
Coats Viyella PLC
(William Collins PLC) ultimate parent: the News Corporation (Australia)
Commercial Union Insurance a/
(Compair Ltd.) parent: Siebe PLC
(Consolidated Gold Fields PLC) acquired by Hanson PLC
Cookson Group PLC
Courtaulds PLC a/
Croda International PLC
Davy Corporation PLC
Delta PLC
(Desoutter Brothers [Holdings] Ltd.) parent: Atlas Copco AB (Sweden)
(The Distillers Company PLC) parent: Guiness PLC
Dobson Park Industries PLC
(Dunlop International AG) merged with BTR Dunlop PLC

United Kingdom (continued)

E.R.F. (Holdings) PLC
B. Elliott PLC
Evode Group PLC
Frank Fehr & Company Ltd.
J. H. Fenner (Holdings) PLC
Fine Arts Developments PLC
Fisons PLC
Foseco PLC
GEI International PLC
General Accident Fire and Life Assurance Corporation PLC
The General Electric Company PLC
Gestetner Holdings PLC
Glaxo Holdings PLC
Goode Durrant PLC
Grand Metropolitan PLC
Great Universal Stores PLC
Greig Fester Group Ltd.
Guardian Royal Exchange Assurance PLC
(Guest, Keen & Nettlefolds PLC) now GKN PLC
Haden McLellan Holdings PLC
Hall Engineering (Holdings) PLC
Hanson PLC
Harrisons & Crosfield PLC
Hawker Siddeley Group PLC
Hickson International PLC
(Highams Ltd.) parent: Langs Ltd.
Hodder & Stoughton Holdings Ltd.
Hunting PLC
Imperial Chemical Industries PLC (ICI)
(International Distillers & Vintners Ltd.) acquired by Grand Metropolitan PLC
Johnson Matthey PLC
(LRC International PLC) parent: London International Group PLC
The Laird Group Ltd.
Laporte PLC
Laycock International Ltd.
The Lep Group PLC
Thomas Locker (Holdings) PLC
Lonrho PLC
Lopex PLC
Low & Bonar PLC
Lucas Industries PLC
Edward Lumley Holdings Ltd.
Macmillan Ltd.
Marley PLC
(May & Baker Ltd.) parent: Rhône-Poulenc SA
(Thomas Meadows International Ltd.) parent: Walford Holdings Ltd.
(Metal Closures Group PLC) parent: Wassall PLC
The Morgan Crucible Company PLC

United Kingdom (continued)

(James Neill Holdings PLC) parent: the MMG Patricof Group PLC
Norcross PLC
(Normand Electrical Holdings Ltd.) parent: FKI PLC
(Northern Engineering Industries PLC) merged with Rolls Royce
Norwich Winterthur Holdings Ltd.
A. Oppenheimer & Company Ltd.
(PSM Fasteners Ltd.) parent: McKechnie PLC
Parker Pen Holdings Ltd.
Pearson PLC
(Pearson Webb Springbett [International] Ltd.) parent: PWS Holdings PLC
(Pegler-Hattersley Ltd.) parent: Tomkins PLC
The Peninsular and Oriental Steam Navigation Company a/
(Phoenix Assurance PLC) parent: Sun Alliance Group PLC
Pilkington PLC
Pirelli U.K. PLC a/
(The Plessey Company PLC) parent: GEC Siemens PLC
Powell Duffryn PLC
Prudential Corporation PLC a/
Racal Electronics PLC
Reckitt & Colman PLC
Record Holdings PLC
Reed International PLC a/
Renold PLC
(Rentokil Group Ltd.) parent: Sophus Berendsen A/S
(Revertex Ltd.) parent: Yule Catto & Company PLC
(The Rio Tinto Zinc Corporation PLC) parent: the RTZ Corporation PLC
Thomas Robinson Group PLC
Rolls Royce PLC
(Roussel Laboratories Ltd.) parent: Hoechst AG
(Rowntree PLC) parent: Nestlé SA
Royal Insurance Holdings PLC
STC PLC
(Sandvik Ltd.) parent: Sandvik AB (Sweden)
Scapa Group PLC
Schlumberger Measurement & Systems Ltd.
G. D. Searle & Company Ltd.
Senior Engineering Group PLC
The Shell Transport & Trading Company
Siebe PLC
The 600 Group PLC
Smith & Nephew (Associated Companies) PLC
SmithKline Beecham PLC
Spirax-Sarco Engineering Ltd.
Stroud Riley and Company Ltd.
Sun Alliance Group PLC
Suter PLC a/
T & N PLC
Tate & Lyle PLC

United Kingdom (continued)

Tenneco International Holdings Ltd.
Thames Water PLC
Thorn EMI PLC
TI Group PLC
Tioxide Group PLC
Tootal Group PLC
Trafalgar House PLC
Tufnol Industries Ltd.
UCB (Investments) Ltd.
Unilever PLC
(The Union International PLC) parent: Western United Investment Company Ltd.
United Industries PLC
(United Precision Industries) acquired by Nippon Seiko K.K. a/
The Weir Group PLC
Wellcome PLC
Wellman PLC
The Western United Investment Company Ltd.
Willis Faber PLC
George Wimpey and Company PLC
Wolseley PLC
Wright Health Group Ltd.

United States of America

Abbott Laboratories
Air Express International Corporation
Albany International Corporation
Louis A. Allen Associates Inc.
Allergan Inc.
A M International Inc.
American Cyanamid Company
Amsted Industries
Avery International Corporation
Baker Hughes Inc.
Bandag Inc.
Beckman Instruments Inc.
Borden Inc.
Bristol-Myers Squibb Company
(Bucyrus-Erie Company) parent: Becor Western Inc.
(Buckman Laboratories Inc.) Bulab Holdings Inc.
CBI Industries Inc.
Caltex Petroleum Corporation
Cascade Corporation
Caterpillar Inc.
Colgate-Palmolive Company a/
Coulter Electronics Inc.
Crown Cork & Seal Company Inc.
Deere & Company

United States (continued)

Donaldson Company Inc.
Dresser Industries Inc.
E. I. Du Pont de Nemours & Company
Echlin Inc.
Eli Lilly & Company a/
Eriez Magnetics
(J. A. Ewing and MacDonald Inc.) parent: Ewing International Holding Ltd. (Channel Islands)
Ferro Corporation
Foote, Cone & Belding Communications Inc.
Forstman Little & Company
Franklin Electric Company Inc.
The Gilette Company
Grey Advertising Inc. a/
Harnischfeger Industries Inc.
Harsco Corporation
The Henley Group Inc.
Ingersoll-Rand Company
International Flavours & Fragances Inc.
The Interpublic Group of Companies
Johnson & Johnson Company
S. C. Johnson & Son Inc.
Joy Technologies Inc.
Kellog Company
Kimberly-Clark Corporation
L & M Radiator Company
Estee Lauder Inc.
Leco Corporation
Loctite Corporation
The Lubrizol Corporation
(Masonite Corporation) parent: International Paper Company
McDermott Inc.
(Metro-Goldwyn-Mayer Ltd.) parent: Turner Broadcasting Systems
Metallurg Inc.
Minnesota Mining and Manufacturing [3 M] Company a/
Mitek Industries Inc.
Monsanto Company
Nalco Chemical Company
National Utility Service Inc.
The Ogilvy Group Inc.
Olin Corporation
(Otis Group Inc.) parent: United Technologies Corporation
(Owens-Illinois Inc.) parent: OII-Holdings
Parker Hannifin Corporation a/
Pfizer Inc.
Phelps Dodge Corporation
Precision Valve Corporation
Preformed Line Products Inc.

United States (continued)

Premark International Inc.
Quaker Chemical Corporation
Raytheon Company
The Reader's Digest Association Inc.
H. H. Robertson Company
Ronson Corporation
Schlumberger Ltd.
(Sigmaform Corporation) parent: Raychem Corporation
Simplicity Pattern Company Inc.
(SmithKline Beckman Corporation) split into Allergan Inc. and Beckman Instruments Inc.
Tenneco Inc. a/
The Timken Company
Tokheim Corporation
Trinova Corporation
Twin Disc Inc.
USG Corporation
Union Camp Corporation
Union Carbide Corporation
Upjohn Company
Wean Inc.
Wheelabrator Technologies Inc.
Wilbur-Ellis Company
Wynn's International Inc.

Notes

a/ Transnational corporations in the process of disposing of their equity interests in South Africa.

b/ Transnational corporations that have reduced their equity interests in South Africa.